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The contents of the NATIONAL MUNICIPAL REVIEW are indexed in the *Engineering Index Service*, the *Index to Legal Periodicals*, the *International Index to Periodicals* and in *Public Affairs Information Service*.

— Buy United States War Bonds and Stamps —

The League's Business

League Leaders Do Their Bit in the War

Many leaders and former leaders of the National Municipal League have joined the armed forces or are serving in important civilian capacities with the government. Foremost among them is John G. Winant who, although serving as Ambassador in London for the past year, remains active as president of the League and participates in the League's activities by mail, cable and, during his visits to this country, in person.

Among others are:

Colonel Henry M. Waite, former president of the League, now consultant to the National Resources Planning Board;

John N. Edy, honorary vice-president, executive assistant and budget officer of the Federal Works Agency;

Karl Detzer, member of the League's Council, major, Service of Supply, U. S. Army, Washington;

Clarence Francis, member of the Council, administrative assistant with the Defense Plant Corporation, Washington;

Robert W. Johnson, member of the Council, New Jersey State Rationing Director;

Herman C. Loeffler, former member of the Council and member of various League committees, U. S. Bureau of the Budget;

George H. McCaffrey, former member of the Council, lieutenant colonel, Quartermasters Division, Air Corps Advanced Flying School, Moultrie, Georgia;

Governor Harold E. Stassen of Minnesota, member of the Council, lieutenant commander, United States Navy;

Charles P. Taft, former member of the Council, assistant director, Office of Defense Health and Welfare Services, Washington;

Leonard D. White, former member of the Council, member of the Committee on Administrative Personnel of the United States Civil Service Commission;

Paul H. Douglas, trustee of the Proportional Representation League, private, U. S. Marines;

Ewen C. Dingwall, former correspondent of the REVIEW for the state of Washington, British Library of Information, New York City;

Frank Bane, member of League's Committee on State Government, director of field operations, Office of Price Administration;

G. Lyle Belsley, member of Committee on a Model State Civil Service Law, executive secretary of the War Production Board;

Weldon Cooper, Alabama correspondent of the REVIEW, with the U. S. Bureau of the Budget;

Harold F. Gosnell, contributor to the REVIEW, head of Communications and Review Section, Office of Price Administration, Washington;

W. Brooke Graves, chairman of League's Committee on State Government, recruiting specialist, Third District Office (Philadelphia), United States Civil Service Commission;

Luther Gulick, member of various League committees, consultant to the

National Resources Planning Board, to the Secretary of the Treasury, and to the Secretary of War;

Julian G. Hearne, Jr., member of Advisory Council, Proportional Representation League, major, 24th Infantry, Fort Benning, Georgia;

Wylie Kilpatrick, member of the League's Committee on County Government, Bureau of the Census, Division of State and Local Government;

Samuel H. Ordway, Jr., member of League's Committee on a Model State Civil Service Law, commander, U. S. Navy;

Lloyd M. Short, Minnesota correspondent of the REVIEW, member of the Committee on Wartime Requirements for Specialized Personnel;

Harold D. Smith, member of League's Committee on Revision of the Model City Charter and Committee on a Model Fiscal Program, director of the U. S. Bureau of the Budget;

Harvey Walker, Ohio correspondent of the REVIEW, captain and assistant finance officer at Columbus for United States Army.

Staff members who have taken up war-connected work are:

S. Howard Evans, formerly director of the League's education project, now consultant for the Bureau of Governmental Requirements, Washington;

E. N. Thompson, field representative of the League, consultant (part-time), National Resources Planning Board;

Ruth M. Williams, formerly publications editor, now with the New York office of the United States Civil Service Commission;

Elizabeth R. Brown, now with British Purchasing Commission, Washington.

Committee on Aid to Libraries in War Areas

The American Library Association, which last year created the Committee on Aid to Libraries in War Areas, headed by John R. Russell, librarian of the University of Rochester, seeks the coöperation of American scholars and scientists in the task of safeguarding foreign institutional sets of American scholarly, scientific, and technical periodicals.

In the present world situation many sets of American publications are being broken by financial inability to renew or through failure of mail deliveries. Some libraries in combat areas have been destroyed. While the committee cannot estimate the eventual post-war demand, its efforts have indicated that it will be enormous.

The current coöperation of the committee with the National Municipal League furnishes an example of its work. Virtually all foreign subscriptions to the NATIONAL MUNICIPAL REVIEW, except those in the western hemisphere, have been unrenowable, some for as long as the last three years. The committee has arranged with the League to store a supply of each month's REVIEWS for distribution after the war.

HOWARD P. JONES, *Secretary*

National Municipal Review

Editorial Comment

"They Also Serve"

THE integrity and strength of the community and the enlightened coöperation of its citizens have never been more important than now. This has been clearly demonstrated by English experience during a period of great trial, and it is coming into sharp focus in this country.

Americans will not hesitate to make any personal and material sacrifice to achieve victory. To accept less would be deliberately to nullify the progress won by those who have preceded us and to deny to those who come after us the wholesome, purposeful, and decent destiny which is rightfully theirs. We are only the temporary custodians of a forward way of life.

While we win on the battle front, however, let us not make the mistake of needlessly dissipating the progress we have already made. Let us continue our efforts for civic competence, decency, and effectiveness at home. All of us cannot march in the armed forces; but all of us can strengthen the nation by being alert, active citizens in our own communities.

It will not help win the war for local civic leaders and local civic organizations to curtail their efforts at this time. Continued support of civic progress is a protection for the present and a sound investment in the future.

JOHN G. WINANT

Ambassador to the Court of St. James's
and President, National Municipal League

Canada Regulates Wages, Prices

The government has adopted the principle that it is better that the cost of living be stabilized than that cost of living bonuses necessitated by rising commodity and service costs should be paid.

EDITOR'S NOTE.—This article has been prepared for the NATIONAL MUNICIPAL REVIEW by a staff member of the National War Labor Board of Canada.

MANY members of this House will recall the situation of the wage earner after the last war when his enhanced earnings bought far less than they did before that war, because in an uncontrolled economy wages always lag behind rises in the cost of living. Today there is a formula which protects workers to some degree against rises in the cost of living. It was designed to be applied, and will be applied, to anyone who can show justification for it."

The statement above, made by Canada's Minister of Labor, Hon. Humphrey Mitchell, in the Canadian House of Commons in March, epitomizes the wage policy of the Dominion's wartime administration.

Motivated by a determination to protect wage earners against undue increases in living costs by avoiding a repetition of the situation which developed during and immediately after the First World War, the Canadian government at the outset of the present conflict enacted measures to eliminate profiteering and established a Wartime Prices and Trade Board with authority to regulate commodity prices.

In the intervening years price and wage control has become an integral part of the economic phase of the national war effort. The entire wage

and price situation has been clarified and stabilized, and the ability of the government to cope with any inflationary tendency has in consequence been materially strengthened.

There has been general agreement in Canada that no one shall profit from the war; that the burden of sacrifices shall not be permitted to fall with undue heaviness on any one section of the community.

This policy was first expressed in the government's legislation to control and tax profits, and also to control prices and rents. It was later rounded out by control of wages, which constitute two-thirds of the national income. There has been a definite awareness that if dollar wages are allowed to rise more rapidly than the flow of civilian goods and services can be increased, prices must inevitably mount, the cost of living must increase, and real wages must diminish in so far as purchasing power is concerned.

On the other hand, the government was alive to the realization that labor must be afforded due protection in order that its health, morale, and productive capacity shall not be impaired, as these intangible factors are necessary weapons in the successful conduct of the war.

In 1939 the operation of the Industrial Disputes Investigation Act was extended to all disputes between employers and employees engaged in war work, and in 1940 legislation

was enacted enunciating principles for the guidance of Boards of Conciliation with regard to wartime wages policy applicable to industries coming within the purview of this act.

Bonuses Provided

Provision was made for the payment in such industries of a cost of living bonus based on any upward price movement shown by the cost of living index prepared at regular intervals by the Dominion Bureau of Statistics. An assurance was thus provided that the normal standard of living of a large proportion of Canadian workers should not be impaired when unavoidable increases occurred in the cost of the necessities of life.

Bonuses were to be determined at quarterly intervals, and paid only if the cost of living had risen by as much as five points. They were to be decreased only if the cost of living declined five points or more during a quarterly period.

The enactment, as amended in June 1941, prescribed that except in special circumstances the highest wage rates established during the period 1926-40 were to be regarded as fair and reasonable. Such wages might be restored if necessary, and maintained but not increased. The amount of the bonus was set at \$1.25 a week for each five-point rise in the cost of living index, except for male workers under twenty-one years of age and female workers employed at basic rates of less than fifty cents an hour, in the case of whom the bonus amounted to 5 per cent of the basic wage rate for each five-point rise. Bonuses were measured from

the cost of living index for August 1939.

At the time of the implementation of this order average money wage rates were higher than they had ever been in Canadian history, with the single exception of the year 1920 when wages were some 2 per cent above the current level and the cost of living was 50 per cent higher.

When steps were taken to stabilize wages they were on a general level approximately 4 per cent higher than in 1929, although the cost of living was 10 per cent lower. Employment was also at its all-time peak, 23 per cent above 1929. The higher prevailing wages, and greater employment with substantial overtime pay, meant that the money earnings of wage earners were also at the highest level ever reached. Payrolls in March 1941 were about 54 per cent above those of 1939. The cost of living was very much below the 1929 figure. Living costs had increased less than 10 per cent from the outbreak of war. It was obvious, therefore, that real wages and real earnings—on the basis of purchasing power—were at an all-time high, and the wage earners of Canada as a whole, despite a greatly increased taxation burden, were better off than they had ever been previously.

As has been pointed out, the original legislation governing wage and bonus policy was applicable only to industries coming within the purview of the Industrial Disputes Investigation Act. In October 1941, however, the Wartime Wages and Cost of Living Bonus Order was enacted. A national War Labor Board and regional

boards were established and charged with its administration.

Provisions Widened

This new order extended the provisions of the wage and bonus policy to all firms or industries, with limited exceptions, employing fifty or more persons, and to any firm engaged in building or other construction work which employed ten or more persons.

Employers coming within this category were expressly forbidden to increase or decrease the basic scale of wage rates paid by them at the effective date of the order. If, however, a War Labor Board found that any employer's basic scale of wage rates was low as compared with rates generally prevailing for similar occupations in a like locality, it was empowered to prescribe such increased wage rates as it found fair and reasonable.

In December 1941 the Wartime Wages and Cost of Living Bonus Order was amended to cover all employers in the Dominion, irrespective of the number of their employees, with the exception of departments or agencies of provincial governments, municipalities, charitable or educational associations or institutions not carried on for purpose of gain, and persons engaged in agriculture, horticulture, fishing, hunting, or trapping.

It became mandatory upon all employers covered by the order to introduce the payment of bonuses on the first payroll beginning on or after February 15, 1942, provided the cost of living index showed a rise of one full point in January 1942 over the October 1941 index number.

For each rise of one point adult

male employees and other employees engaged at basic wage rates of twenty-five dollars a week or more were to receive a bonus of twenty-five cents weekly. Male employees under twenty-one years of age and female workers employed at basic wage rates of less than twenty-five dollars a week were to receive a bonus of one per cent of their weekly wage for every full point rise in the cost of living index number.

The Wartime Wages and Cost of Living Bonus Order applied to employees up to and including the rank of foreman or comparable rank, and any employee being paid at the rate of less than \$175 a month was deemed to come within its provision.

Price Control Ordered

Concurrently with the enacting of the Wartime Wages and Cost of Living Bonus Order, a further order was enacted freezing the maximum prices of all goods. So successful was this price control mechanism that, instead of increasing, the cost of living index numbers for both January and April 1942 showed a slight decline as compared with the index number for October 1941.

During the first World War the cost of living rose approximately 24 points between August 1914 and January 1917. In the present war it rose 14.5 points between August 1939 and January 1942.

By introducing a cost of living bonus system the Canadian government was most certainly not motivated by a desire to erect a huge Christmas tree loaded with gifts for Canadian wage earners. The bonus system was initiated to insure that no real hardship would result in the

case of workers faced with the necessity of meeting increased living costs out of a wage based upon a period when commodity prices were on a lower level.

There never was the slightest intention that during a period when sacrifices were required of every Canadian, and sacrifices of both a monetary and physical nature were cheerfully being made by the men of the Dominion's fighting services, Canadian wage earners should be accorded special privileges which they had not formerly enjoyed. From the very outset the government has adopted the principle that in the real interest of the wage earners it is much better that the cost of living be stabilized than that cost of living bonuses necessitated by rising commodity and service costs should be paid.

Labor Minister Explains

Reviewing the government's wage and bonus legislation in the House of Commons in March, Minister of Labor Mitchell pointed out that the fact that the cost of living index did not rise in the period October 1941-January 1942 indicated that the government prices policy had, during the initial period at least, functioned on all cylinders.

"Employers not paying a bonus prior to November 15 are mandatorily required to begin paying one as soon as the National War Labor Board announces that the cost of living index has risen by one whole point or more," Mr. Mitchell informed Parliament.

"An employer in the foregoing group may not pay a larger amount of bonus than the announced amount,

or begin to pay one in any amount before an announcement is made by the Board, unless he applies for and is given permission to do so or unless he is directed by the Board to do so as the result of an investigation of his situation.

"Provision is made whereby an employer or an employee or any association or group of employees may apply in writing to a War Labor Board for an authorization that a cost of living bonus be paid in such amount as the Board may find fair and reasonable.

"The reason why it was not made mandatory for all employers to pay a cost of living bonus of any amount larger than the amount dictated by the future movements of the cost of living index is this: that many employees have received wage increases since the outbreak of the war which have compensated them in whole or in part for the rise which has taken place in the index to date. Furthermore, the government could not order a general payment of bonus without regard to the financial condition of a business which may be operating on a reduced margin owing to the price ceiling. On the other hand, the payment of maximum bonuses by all employers able to pay it, without regard to wage increases granted, would release taxable corporation earnings into channels of consumer purchasing at a time when the government is interested in restricting purchasing power for civilian goods. The House will appreciate, too, that some industries are today existing on government funds in the form of subsidy.

"Employers required to pay future

mandatory bonuses or who, having already paid a bonus, find that as a result the business cannot operate, have the right to apply for permission to reduce the amount of bonus or to defer the payment. In such cases an audited financial statement is required by the Board.

"When an application for bonus payment is received, consideration is given to all the factors mentioned. The Board is limited in its authority in that it may not direct that a bonus be calculated in the rise in the cost of living index from a month earlier than the month in which the last general increase in wage rates was granted. The Board has absolutely no authority to order that a bonus be paid retroactively, although, as stated, it may order calculation of the rate of bonus from an earlier date than October.

"It has been stated in various quarters that wages are frozen and

that, in consequence, injustices as between wage rates have become 'frozen' also. This is not true. Just as in the case of bonuses, provision is made for application by employees of a revision in wage rates in cases where it can be shown that wages are low compared with the wage paid for similar or comparable work in a locality or a comparable locality.

"It is feared that many workers not receiving a bonus—but often in receipt of increased wage earnings—do not recognize how much better off they are not to get a bonus for the reason that the cost of living does not justify it, owing to the effect of the government's policies on prices, salaries, and wages. On the other hand, they would be playing leap-frog with a continually out of reach cost of living level to which a completely adequately bonus formula could not be applied without wrecking many business institutions."

PUBLIC officials who want to tackle the most urgent national problem next to war itself, may well study the dilemma of metropolitan areas. New arrangements of territory may be needed, great economies can be made even in the existing areas and a new type of revenue must be found to supplement and replace the property tax. State aid and federal aid may be partial answers but the desirable solution lies in some arrangement of territory, services, and revenue that will permit local determination of policies and administration.

CARL H. CHATTERS in *Municipal Finance*, May 1942.

Supreme Court Hints New Utility Rate Base

Recent opinion of concurring judges opens way to shift from "fair value" to "prudent investment" in rate making.

By JOHN BAUER, Director
American Public Utilities Bureau

THE Supreme Court decision, March 16, 1942, in the Natural Gas Pipeline case¹ has been heralded as reversing its 44-year-old "fair value" standard of public utility rate-making as enunciated in the famous case of *Smyth vs. Ames* in 1898. While no reversal is expressed or directly implied by the decision and opinion delivered by Chief Justice Stone, basic shift is indicated, or pre-saged, by the concurring opinion of Justices Black, Douglas, and Murphy.

Apart from other considerations, the fair value rule had long been recognized as fixing reproduction cost as a necessary consideration in determining valuations for public utility rate-making. This particular factor has been under frequent attack before the courts, and has been criticized by many, not only because of its inherent unreasonableness, but especially because of its uncertainties, variability, and difficulty of administration. It has been regarded as the chief obstacle to satisfactory regulation by federal, state, or local agencies.

In recent years the assault upon reproduction cost has been accentuated and sharpened. The Federal

Power Commission particularly has urged the Supreme Court to repudiate "fair value," and to recognize "prudent investment" as the constitutional rate base in deciding whether particular rates are confiscatory.²

Apart from the elements of depreciation and working capital, prudent investment consists of the reasonable original cost of installing the properties that are used in furnishing public service at the time of the rate inquiry, instead of their reproduction cost as assumed under the fair value rule. The prudent investment in any instance would be primarily a matter of definite accounting control, and would always be an exact amount as shown by the records. It would involve no hypothetical and opinion figures, no repetition of valuation procedure with protracted hearings, and no inherent conflict between public and private interest. The vital difference is: prudent investment can be regularly administered on a definite basis in fairness to both the companies and the public; reproduction cost cannot. Administration is the crux of effective regulation.

¹*Federal Power Commission et al. v. Natural Gas Pipeline Co. of America et al.*

²See *Denis J. Driscoll et al. v. Edison Light & Power Company*, 59 S. Ct. 715, decided April 17, 1939.

The instant case arises out of the Federal Power Commission's compliance with the Natural Gas Act of 1938. This placed the interstate natural gas industry under the Commission's control and provided for the fixing of reasonable rates on interstate gas deliveries. On complaint of the Illinois Commerce Commission, and on its own motion, the Federal Power Commission proceeded to investigate the activities and rates of the Natural Gas Pipeline Company of America and the Texoma Natural Gas Company. The two constitute a single enterprise, producing natural gas from their own reservoirs in Texas and purchasing gas produced there by others. They transport the gas through their own pipe line to Illinois, where they sell the bulk wholesale to utilities which distribute the gas for domestic, commercial, and industrial uses.

After investigation and hearings the Commission issued an *interim* order for immediate reduction in rates before the final determinations were completed. The interim rates were predicated upon the companies' own statements with regard to book costs, valuations, revenues, and operating expenses. The rate base adopted for the particular purpose included the claims for reproduction cost but excluded any separate and additional allowance for "going concern" value.

On the rate base presented, the Commission allowed a return of 6.5 per cent, on top of the companies' showing of operating costs, and ordered the lowering of rates equal to an annual reduction of \$3,750,000

in operating revenues to become effective after September 1, 1940.

Before the Supreme Court the companies raised these principal issues: (1) the general jurisdiction of the Commission; (2) the Commission's particular power to fix interim rates prior to the conclusion of the entire investigation; (3) the rate base with respect to fair value, particularly the exclusion of going concern; (4) the rate of return; (5) the basis of plant amortization.

The Decision

The Supreme Court upheld the Commission on all points. Chief Justice Stone discussed the pertinent issues and facts, but limited himself almost entirely to the questions raised by the particular case under the Natural Gas Act. As to reproduction cost he said nothing that can be taken directly as changing the legal situation materially, if at all. He considered merely what the Commission had done. Since it had adopted reproduction cost as claimed by the companies, prudent investment was not involved. What decision might have been reached if investment had been used is not revealed and still remains nominally conjectural.

The Court, however, rejected a claim of \$8,500,000 for going concern, which had been disallowed by the Commission. This amount was claimed as a separate and additional sum on top of the rate base as adopted. It was predicated particularly upon the capitalization of past maintenance, depreciation, and return for surplus plant capacity which had been provided during earlier years,

but was not then needed for operation. The Court held that a separate allowance for going concern is not necessary and that past losses need not be included in fixing future rates. As to rate of return, it approved the 6.5 per cent used by the Commission; it referred to recent interest rates which have been as low as 2 per cent on safe investments, and so may have intimated that a lower rate than 6.5 per cent might not have been found confiscatory.

Concurring Opinion

The prospective significance of the case appears more in the concurring opinion signed by Justices Black, Douglas, and Murphy than in the decision itself or in the directly relevant discussion. The three judges presented two matters of general perspective which had no immediate bearing on the decision but have distinct importance regarding the Court's future dealing with rate cases: (1) the right of judicial review under the constitution, and (2) rejection of reproduction cost as a necessary element in the rate base.

First, the judges questioned whether the courts have any basic function and power under the constitution to review rates fixed under legislative authority. They surveyed the cases dealing with such judicial review and showed that originally in *Munn vs. Illinois* and *Peik vs. Chicago etc. Railway Company*, both decided in 1877, the Court emphatically declared "price fixing to be a constitutional prerogative of the legislative body, not subject to judicial review or revision." But in subse-

quent cases there was a shifting of position, and finally in *Smyth vs. Ames* in 1898 the Court not only recognized the power of judicial review, but proclaimed fair value, with special mention of present cost of construction, as the basis of determining whether rates are reasonable or confiscatory.

The judges expressed their belief that such transfer of power to the courts was historically unjustified, and that it has had a paralyzing effect upon rate regulation. In the instant case the Natural Gas Act itself provided for review, hence the action was statutory and did not necessarily involve the constitutional issue. This, however, can be raised in any ordinary rate case where a company is contesting the validity of rates fixed by a commission without statutory provision for review.

Chief Justice Stone appears to assume that the "due process" clause of the constitution naturally involves judicial review, regardless of statutory prescription. Three judges definitely do not agree. What the majority may hold when the question is at issue is uncertain—but only two more voices need be added to those already heard to discard the doctrine which was wholly court-made after 1877, and has caused no end of trouble in application.

Second, since the Natural Gas Act expressly provided for judicial review but fixed the restriction that the "finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive," the judges feared that Chief Justice Stone's opinion does not properly delimit the

scope of the review under the particular statute. Because of his reference to "constitutional requirements" and to "the limits of due process," they felt that the Court might "be deemed to perpetuate the fallacious fair value theory of rate-making in the limited judicial review provided by the act." Hence they reviewed the fair value doctrine, especially with reference to reproduction cost, and concluded that under the act "the Commission has a broad area of discretion for selection of an appropriate rate base," that the courts cannot "concern themselves with any issue as to the economic merits of a rate base," and that "the Commission is now freed from the compulsion of admitting evidence on reproduction cost or of giving any weight to that element of fair value. The Commission may now adopt, if it chooses, prudent investment as a rate base—the base long advocated by Mr. Justice Brandeis. And for the reasons stated by Mr. Justice Brandeis in the Southwestern Bell Telephone case, there could be no constitutional objection if the Commission adhered to that formula and rejected all others."

Discard of Reproduction Cost

While this definite view on the discard of reproduction cost is not directly expressed by Chief Justice Stone, and though it is stated with reference to judicial review under the Natural Gas Act, it is likely to become the law of the land as soon as the particular issue arises. This is clearly indicated by Chief Justice Stone in the present opinion:

The constitution does not bind rate-making bodies to the service of any single formula or combination of formulas. Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances. Once a fair hearing has been given, proper findings made and other statutory requirements satisfied, the courts cannot intervene in the absence of clear showing that the limits of due process have been overstepped.

While this pronouncement is not specific, it appears to agree with the three judges that it is not "permissible for the courts to concern themselves with any issues as to the economic merits of a rate base." Any commission, unless differently directed by statute, may reject reproduction cost and select prudent investment if it chooses—that is likely to be the law when the issue is once raised in a particular case before the Supreme Court.

Such a case is probably already in the making. For example, the Federal Power Commission has been using prudent investment for some time in fixing interstate electric rates. In applying this rate base it has taken the reasonable original cost of the properties, and has deducted depreciation due to both physical and functional causes, including obsolescence. Both factors, the original cost and the depreciation deduction, are likely to be carried to the Supreme Court for constitutional determination. The issue will be accentuated by the rising prices which have already taken place and which may continue further as the war continues.

The issue is vitally important. If private utility organization with public regulation is to be continued in future national and state policy, modification of basic standards of valuation must be embodied in the law of the land.

Objectives and Standards

If reproduction cost can once be discarded as a constitutional requisite, and prudent investment adopted, a long step toward suitable regulatory practice will have been taken. But this is only the essential first step to attain effective regulation. It should be followed by comprehensive legislation to fix clearly the objectives of regulation and prescribe definitely the standards, machinery, and procedure. The statutes should not only grant commissions the requisite powers, but also impose the positive duties to carry out the legislative mandates through regular and systematic administration.

The existing statutes are far too vague as to purposes, rights, and processes. This lack of definite standards has probably been responsible in large part for the interjection of judicially made standards—unfortunately bad ones. When these have been cleared away appropriate legislation will be required to make regulation an instrument of constructive policy. If that is provided there

will be little or no occasion for recourse to due process. If not, regulation is likely to continue floundering, despite removal of judicial hindrances. Clear purposes and responsibilities, as well as systematic administration, are essential and can be attained only through objective legislation. Apparently such long needed revision of regulatory statutes can now be attained without serious danger of stoppage by the courts.³

³Such modification was proposed by the writer to the 1929 New York Legislative Commission on the Revision of the Public Service Commission Law; it was embodied in bills drafted on behalf of the minority and supported by then Governor Roosevelt, but was rejected by the majority as unavailable under Supreme Court decisions. Likewise, fair value, as predicated largely on reproduction cost, has been regarded by most lawyers as a matter of fixed constitutional decision, so that basic transformation of regulatory standards would not be available.

This assumed rigidity of law is now clearly gone, and legislation appears to be freed to provide constructively the objectives and means of regulation for the advancement of public interest. This released legislative power doubtless applies not only to rate base, but to all phases of policy and administration—not only to public utilities, but to all important economic relations to public welfare and progress.

For positive standards of a rate base see Part III (Chapter XV-XIX inclusive) of *Public Utility Valuation for Purposes of Rate Control*, by John Bauer and Nathaniel Gold. The Macmillan Company, New York City, 1934.

Are There Too Many Cities?

As profoundly desirable as is local government we may be faced with a choice of discouraging further incorporations for selfish purposes.

By WINSTON W. CROUCH
University of California at Los Angeles

EVERY census return for the past forty years has shown that the United States is on the way to being a nation of city dwellers. In earlier years many states experienced sudden real estate expansions and influxes of population which led to the creation of a large number of urban governments. Although the 1940 census indicated a sloping off in the rate of city growth, expansion of certain national defense industries is producing a somewhat similar situation in many areas today.

A number of plants have been located in semi-rural and suburban communities in order to obtain the large tracts of land needed for development. Around these plants subdivisions have been platted and housing constructed to supply residential needs. Will this produce a demand for more special districts, village and city governments to supply such needs as police and fire protection, schools, recreation, etc?

The time may now be appropriate to examine the laws and procedures by which the states govern the formation of municipal corporations. In a few commonwealths the question has been raised as to whether communities which are not now incorporated should be encouraged or discouraged in seeking incorporation.

Students of municipal government tend to regard the creation of muni-

cipal corporations by special act of the legislature as a procedure belonging to a past era, one in which states were more rural than urban. Nevertheless, creation of municipal corporations by special act is not entirely a historical phenomenon. Ten states in the eastern and southern sections of the country continue to create and govern municipalities in this manner.¹ Certain of these states submit incorporation proceedings to a vote of the inhabitants of the affected area. In some, newer urban problems have produced a demand for a different handling of municipal government.²

A majority of states now prohibit the creation of municipal corporations by a special act. Commonly the legislature provides a general statute setting forth the procedure to be followed by local groups seeking incorporation. A constitutional provision requiring general laws is not sufficient, however, unless there is no possibility of confusing the construction of the law. Florida and New Jersey, for example, both have gen-

¹Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Delaware, Maryland, Florida, Georgia, and Tennessee.

²Charles R. Erdman, Jr., *Growth of Municipal Incorporations in New Jersey, Princeton Local Government Survey* (1937); American Municipal Association, *The Municipal Charter Problem in Florida* (1937).

eral municipal statutes, but it is possible also for the legislature to create municipal corporations by special act. In fact the larger number of communities incorporated in both states in recent years have been formed by the special act method at the request of local groups which felt they could best obtain what they wanted by that method.

No Set Policy

The greatest criticism of the special act remains that the legislature undertakes no set policy regarding the form and powers of the municipalities created. Equally important is the fact that this method encourages multiplication of municipalities that are small in area and population. There is no effective pressure for the simplification of the governmental pattern. One newly created New Jersey borough, for example, had almost its entire area within a golf course. The motivation back of this proceeding appeared to be a desire to escape a school tax and to prevent interference with the playing of golf on Sunday. In 1928 the borough of North Cape May was created with only five inhabitants, a number insufficient to provide the officers required by New Jersey borough law.³

The states which create municipal corporations by general law procedure have done so on the theory that the initiative for the move should come from the community itself and that local voters are the best judges of the wisdom of any such movement. The latter assumption may be questioned without violating the best conceptions of home rule. A state can-

not justify the creation of cities or villages with insufficient taxable wealth or even insufficient social unity to vindicate their existence. At least in metropolitan areas the state, or some agency acting for the state, may well be placed in a position to retard unnecessary incorporation movements.

Incorporation of cities, towns, and villages under general law is in reality a delegation of the legislative power to the local voters or to some body charged with responsibility for applying statutory procedure. The statute in each instance outlines certain tests of eligibility and specific procedures that any group of voters seeking to incorporate a municipality must observe. The chief test of eligibility for incorporation under most statutes is population, although usually only a small number of inhabitants is required.

A great many states distinguish between towns and villages as the smallest incorporated local units and the city as the larger and more important municipal corporation. Georgia permits incorporation of a village by a minimum of twenty-five voters, whereas other states require from one hundred to five hundred population for a village or town. Those states which distinguish between the very small municipal corporation and the city set population tests for incorporation of a city at figures ranging from five hundred in South Dakota to ten thousand in Pennsylvania. The figures most frequently set are one thousand and two thousand total population. Five states, mostly in the west, make no distinction between cities and other

³Erdman, *op. cit.*

small units, but allow thinly populated areas to incorporate as a city.⁴

Population, Wealth Factors

Little attention appears to have been given to tests for density of population or taxable wealth within the area proposed for incorporation. Failure to set forth requirements of this nature in the law leaves the way open for creation of municipal corporations that are essentially rural in nature. Numerous examples occur in western states. Both West Covina and Orangethorpe, California, were created as regularly incorporated cities to prevent neighboring cities from establishing sewer farms in these agricultural areas. Property owners could find no other means for combating their neighbors' plans; therefore they rallied a sufficient number of voters to incorporate a city. Once incorporation was accomplished the sewer projects were blocked and little reason remained for the continued existence of these new cities. Orangethorpe has since disincorporated.

Less spectacular examples are the "vest pocket" villages of Long Island, New York, created between 1921 and 1935. Of the ninety-one villages created in that state during those years, sixty-one were concentrated in two suburban counties on Long Island.⁵ While it may not be said that the villages were lacking in population or assessed wealth, they were not urban in character. Once having incorporated their area, property owners could supervise the enforce-

ment of zoning laws which would preserve the community *status quo*.

In each example the problems were real, but the proposition did not follow necessarily that creation of cities or villages was the logical means for solving them.

A few states have attempted to insure that proposed municipal corporations will be urban in character. The Michigan law requires that an area proposed for incorporation must have a density of population equal to five hundred per square mile. In Illinois an area that does not exceed four square miles and has not less than one thousand population may incorporate. New York village law has been amended several times in an effort to discourage establishment of extremely small local units.

Cities in western and middle western states have been induced to include belts of agricultural land within their limits. In some instances realty groups believed that the city would expand and therefore persuaded property owners to permit their lands to be included in the incorporation. In western states such as California undeveloped lands have been included within cities often to assure a supply of water. Police and fire protection afforded by the city have been inducements also. Determination of how much land is to be included in a proposed city or village is usually left to negotiation by those seeking to organize the unit. A part of the strategy of such groups is to include only the lands of those who are known to favor incorporation. The general rule of law, however, is that land must be contiguous to form a city.

⁴Kansas, minimum population, 100; Kentucky, 125; California, 500; Nevada, 250; Wyoming, 500.

⁵Philip H. Cornick, *Excess Land Subdivision and Its Consequences* (1939).

Initiation of incorporation proceedings in general law states is by petition of voters or property owners in the proposed area. In some states a definite number of signers is required, in others a percentage of the local inhabitants or voters must be obtained. Both Missouri and North Carolina require a majority of the freeholders to sign the petition before it can be judged valid. In such instances presentation of a petition is tantamount to holding an election. In the majority of states the number of signatures required is so small as to make the start of incorporation proceedings exceedingly easy.

Form of Proceedings

After a petition has been signed by the requisite number of persons the next step is to present it to the agency designated by the legislature. In many states the petition must be accompanied by a map and description of boundaries of the area and a census or proof of population. All this is usually at the expense of those circulating the petition. A generally accepted requirement is that the incorporation application should be given a public hearing, consequently public notices of the matter must be posted or published.

The body before whom action is taken differs in various states, but in each instance it stands as the representative of the legislature and can exercise only such powers as the legislature delegates to it. In most states it is a local body affiliated with the county and therefore is familiar with local issues. In several states the county court is directed to receive incorporation petitions. In about an equal number of states the

county board of supervisors receives the petition and holds hearings on the application. In North Carolina the Municipal Board of Control, composed of the secretary of state, attorney-general, and public utilities commissioner, passes on applications. In Louisiana the governor is designated to perform this function.

Most states do not appear to give the county court or board of supervisors discretionary authority to inquire into the ability of the proposed city to support a government. The functions of the local body seem to be to check the validity of the petition signatures, determine if the population of the area complies with the statute, and see that all procedural steps have been taken. If these matters are in order there is no alternative but to call an election in the area affected. If a majority of those voting at the election approves incorporation the result is then certified, usually to the county recorder and to the secretary of state. After that the city or village is a full-fledged municipal corporation and may levy taxes, make ordinances, and elect officers.

In a few states discretionary authority to inquire into the need for and the ability to support municipal government is permitted. In North Carolina a proposed town must have at least fifty persons at least twenty-five of whom are freeholders, together with \$25,000 assessed valuation of property. Any person may present objections to the Municipal Board of Control at a public hearing. The board has authority to inquire if incorporation will better the interests of the persons involved and the

public. The entire procedure is in keeping with the strong central control exercised under the so-called North Carolina plan.⁶ In Ohio the statute allows the county commissioners to satisfy themselves that the area proposed is not unreasonably large or small. They may act "if it seems right that the petition be granted."⁷

No Court Review

The courts have restricted their own power of review in incorporation cases, so that the solution of this problem rests with legislative and administrative bodies. The courts have taken the attitude that proceedings by county commissioners in incorporating a village or city are political in nature and not judicial, and therefore are not subject to review on a petition of error.⁸ Furthermore, they have said that the finding of fact regarding the amount of population and the determination of policy as to how much area shall be included is for the county board to decide. The courts will not go behind this finding.⁹

There appears to be nothing in the law on municipal corporations to direct a state board or the county board of supervisors to put a brake upon incorporation proceedings and to demand a showing of cause for incorporation. In most incorporation

proceedings there is enough factional argument to indicate that the citizens of the proposed area are not all of one mind. A "cooling off" period sometimes will produce other methods of solving the problems presented.

Southern California—Los Angeles County in particular — has experienced a population growth and consequent urbanization that is as great as any in the country. The town sites for most of the cities in this county were marked out during the great land "boom" of 1887, but the great urge to create city governments came much later. The city of Los Angeles, the oldest community in the area, was recognized as a city in 1851 by special act of the first state legislature. Since 1887 it has been completely surrounded by a ring of cities varying in population and size of territory. Many attempts to incorporate other areas failed. A record of the actions of the Los Angeles County Board of Supervisors is illuminating in this matter. Here is a summary:

Petitions for Incorporation 1912-1940

Accepted, incorporation completed	23
Defeated by popular vote in the area	6
Petitions withdrawn by circulators	5
Denied by Board of Supervisors, insufficient population	3
Denied by Board of Supervisors, insufficient wealth	1
Ordered abandoned after public hearing	10
Total	48

Of forty-eight petitions, twenty-

⁶See "Effects of North Carolina's Centralization," by Paul W. Wager, *NATIONAL MUNICIPAL REVIEW*, December 1937, p. 572-577.

⁷*Page's Ohio General Code*, Sec. 3522.

⁸*Bring v. Hollister*, 4 Ohio App. 45.

⁹*People v. City of Riverside*, 90 Cal. 51, 9 Pac. 662 (1886); *People ex rel Russell v. Town of Loyalton*, 147 Cal. 74, 82 Pac. (1905).

nine survived public hearings before the Board of Supervisors, twenty-three of which were approved by the voters. In ten instances the board directed that proceedings be dropped, usually because the petition was defective in some matter stipulated in the statutes. Such fatal errors usually pertained to the drawing of boundaries.

Occasionally so many property owners petitioned to have their lands excluded from the proposed area that an illogically shaped city would have resulted if the matter had proceeded. The supervisors voted to drop proceedings only when community sentiment seemed to be hopelessly muddled.

Only in one instance did the board reject a petition on grounds of insufficient taxable wealth. In that instance petitioners requested incorporation of a strip of land one block wide and three miles long on the east side of Los Angeles. Less than a thousand persons, of working class incomes, lived in the area. The supervisor from that district in moving rejection of the application understated the case when he charged bad faith!

One effort in recent years to organize the largest remaining unincorporated section of the Los Angeles metropolitan area failed because it

attempted to join six or seven communities that had come to have certain amount of individual identity. Although the proposed city would have had at least 20,000 population and adequate taxable wealth, it would have lacked social and political unity. The proposal was defeated roundly.

In growing areas demands for incorporation are frequent. Some dramatic issue arises or is manufactured by interested groups to stir citizens to action. Sometimes it is a dispute over taxation, sometimes a difference of opinion over zoning policies. Local option and liquor control have figured in the past. Sometimes it is the threat of a nuisance about to be committed by neighboring cities. On other occasions it is merely a desire to secure the services of city government under policies that are agreeable to a local majority. Often in metropolitan area various groups of suburban residents feel called upon to incorporate to prevent their being caught up in the expansion of the larger city.

As profoundly desirable as is local government, we may be faced with the choice of discouraging further incorporations for selfish and factional purposes. There is need for authorizing some body to force attention to the necessity of simplification in governmental units.

A Citizen's Observations on State and Local Budgeting

The basis for improvement lies with the citizen—water does not rise higher than its source; the basis for successful citizen action is an active citizen agency.

By GROVER WM. ENSLEY
United States Bureau of the Budget

JUST as the blind men describing an elephant were unable to agree as to the exact character of the beast, so perhaps it is reasonable to suppose that different persons or groups are unable to agree as to the present status of state and local budgeting.

The retired farmer elected to the office of clerk in a small western county and charged with the tedious duties of budget officer may believe that the procedures of budgeting are too complicated. A government administrator or economist may not like the way legislators disregard carefully analyzed plans and recommendations. Independent research agencies may decry political inertia negating improvement in the system. Finally, certain taxpayers organizations may criticize present budgeting policies and methods as failing to reduce taxes.

Space will permit a discussion of only a few of the budgeting defects which directly concern the citizen and the citizens' organization. No attempt will be made, therefore, to present a well rounded discussion or even to tip our hat to important technical or administrative problems.

Let us look first at the process of budget preparation. Although determination of government fiscal policy is particularly important at this point,

few governments have agencies devoted to a study of the problem. Too little attention is given to preparing a plan of expenditures which will bring about the most satisfactory relationship between private and public operations and the most desirable balance among the activities of government.

The dollar sign receives more attention than the job to be performed. In some communities thousands of dollars are budgeted for parks and little or nothing for libraries. Large sums may be made available for school plant and equipment; yet educational services may be poor because salaries are too low to attract capable teachers. In many cases requests reflect hobbies or interests of officials or influential citizens.

Criteria need to be developed to indicate on what basis to allocate x dollars for activity A and y dollars for activity B. The need for including the revenue side of the budget in such policy determination analyses is equally important, and yet today, in so far as thought is given to allocating the burdens, this aspect is almost totally divorced from expenditure policy making.

The citizen is interested, of course, in the magnitude of government operations; he wants to know how much

of his income is going to be taken by the government and what services he may expect in return. The one place where he should be able to find out these facts is the budget document. The budget document of any unit of government, as everyone knows, should contain all items of expenditure carefully estimated and show in detail the manner in which these expenditures are to be financed. The truth is, however, that many officials simply copy last year's budget, which they dig out of dusty files; thus, the budget may not provide any real basis for analysis or comparison. One city's budget records expenditures of less than \$100,000 year after year. Actually they run well over \$200,000. Expenditures are underestimated and important functions are not included at all.

Not only do budget documents fail to include all expenditures but many budgets still fail to give any idea as to how expenditures are to be financed. Either they do not include columns for income, or income items are poorly estimated. A county may know from past experience that it collects only 90 per cent of the taxes it levies, and yet it enters as an item of income the full amount of taxes levied.

Even though the budget document has been prepared according to the best standards, further difficulties arise when the budget is submitted to the legislative body for consideration and adoption.

It is generally recognized that adequate provisions should be made for public budget hearings. The citizen, the citizens' agency, or any other interested group should have the op-

portunity to voice endorsement or opposition to items in the budget. At this point many budgeting systems fall down simply because the citizen is not educated as to the content of the budget.

Actually, many officials do not want a public review of budget requests. Sometimes it is a matter of not knowing how to handle the public. In many instances the budget is never made available to interested citizens. In one state, for example, each state budget document is carefully numbered and just a few copies reach the public, with only a cursory gubernatorial budget message appearing in the newspapers.

Analyzing the Budget

When made available the budget calendar often does not permit ample time for the citizen or citizens' agency to analyze the budget and prepare adequately for hearings. A popular condensed version of the budget including explanatory material should be made available to all interested citizens in time for study before the hearings. When this practice was first started in one city, a citizen was amazed to find that the community was spending one dollar per capita annually on cemeteries but nothing on garbage disposal. He said he had always wondered why his city possessed the most beautiful cemetery in the state yet had to put up with incinerator smudge-smoke and unsanitary back yards. Local newspapers, study groups of leagues of women voters, and the like may be useful in arousing public interest in this connection.

In considering and taking action

on the budget each item of expenditure should be given adequate attention. The legislator should distinguish between economy and parsimony. A wise legislator will have a more farsighted attitude than the school board director who said that increasing teachers' salaries was false optimism, basing his conclusion on the fact that one year his board increased the salary of a teacher from \$400 a year to \$440 a year but could see no difference in the quality of the teacher.

But in spite of the fact that citizens may often take an active part in budget hearings, when the storm has subsided they may have difficulty in finding out the nature of the budget plan adopted. Therefore, after the budget has been revised and acted upon by the legislative body and when the executive has had an opportunity to exercise veto powers, some form of summary report should be published showing how the original budget plan has been altered in the legislative process. This, more clearly than the original budget document, gives the average citizen an idea of the probable magnitude of government operations during the forthcoming period.

Failure to Follow Budget

One of the principal defects in the budgeting process is the failure on the part of administrators to execute the plan as authorized. Frequently department heads never see their budgets after they have been submitted. These agencies may know from past experience that no check is made. Hence, they proceed to spend at will. It is true that departments may be re-

quired to stay within certain dollar limits, but generally there is no check to see if a work program is followed.

Supplementary budgets and appropriations are too often employed. A great deal of study and debate may be devoted to an original budget plan, but during the fiscal period substantial supplementary appropriations may be made without notice or open discussion. If this practice is resorted to, period after period, the whole process of original budget preparation, public hearings, and the like becomes meaningless.

The budgeting cycle is completed with the review of budget execution. Responsibility for this review should be with the legislature. Regardless of who performs the technical job of reviewing budget execution, however, the citizen should have several questions answered. These include among others: first, how did actual expenditures and receipts compare with original budget estimates and if there is disagreement, why? Second, has the work program been executed according to schedule, and if not, why not? This information should be included in an annual report and made available to all interested citizens. Many units of government, however, operate year in and year out without any kind of audit or report to the citizens.

Basis for Improvement

I have suggested a few common weaknesses in the budgeting process at the state and local levels, with possible solutions. More far-reaching reforms are required, however, if budgeting progress is to be achieved on all fronts.

Basically, better government structure and more capable personnel are essential. Being realistic, however, we must admit the political limitations to rapid movements in these directions. In the intervening period, then, we must strive for budget systems of a less complicated nature.

A second basis for improvement is through the budget law. Care must be taken in drafting the original act. In one state an overly anxious group of taxpayers, believing there should be a rigid county budget law, copied the statute of an adjoining state and pushed the measure through the legislature before it was realized that the law did not fit the fiscal calendar, revenue system, or administrative organization of the county. Dissatisfaction with the act nearly resulted in a complete overthrow of uniform county budgeting in that state.

Intergovernmental Cooperation

A third basis for improvement may be achieved through intergovernmental coöperation. An attempt should be made to get what might be called an "over-all picture." In terms of services and costs what are the effects on the citizen of the several levels of government—federal, state, county, city, school, and other districts? In a growing number of fields two or more of these levels of government are active. It is practically impossible today to determine in a county how much all units of government are spending for any given function and the aggregate service provided.

A great need exists for uniform terminology and classification in budgeting, accounting, and reporting not only within each level but among all levels. Uniformity of this nature

would make possible the preparation of consolidated statements of total government activity and would be of particular value in preparing budget plans. Many state and local units, for example, find budgeting for welfare next to impossible because they have no way of determining what policy Congress will take in respect to WPA, PWA, and the like. On the other hand, a certain flexibility is desired in federal budgeting. Perhaps budget conferences could be worked out with representatives from the several levels of government attending.

Better understanding of the tasks and responsibilities of the other levels would likewise be strengthened if there were more intergovernmental coöperation. In an unbalanced society, where the government has to fight depressions and wars, it is desirable to have machinery to insure that local action will not deter federal action. Today, for example, the federal government is in the midst of the greatest war effort in history. A realization of this effort by other levels of government is essential. Governments and individuals are being called upon to defer capital improvement outlays and other expenditures that might conflict with this effort or be inflation-generating.

State supervision probably offers the most satisfactory solution to local budgeting ills. By state supervision the surrender of the right of a local unit to determine the content of the budget is not inferred. The determination of how much should be spent, for what it should be spent, and how the burden is to be distributed, within broad limits, should be

decided locally. The procedure of budgeting, however, can be improved through state supervision.

Two principles need further emphasis in respect to this supervision. First of all, the supervisory agency should receive adequate funds. It must be able to follow not only routine supervisory duties, but should initiate improvements. The agency should offer its services as a consultant to local units and serve as a research organization whereby local problems may be studied and solved. Secondly, the agency must be realistic and practical in its demands on the local units. Sometimes a state agency seems to make its regulations and forms as difficult to understand and follow as possible.

Ultimately, the basis for improvement lies with the individual citizen. It must be realized that water does not rise higher than its source. The citizen—the source of all power in a democracy—must take an active part in seeing that the budgeting process is carried out efficiently. This requires more than voting intelligently on election day. It requires the maintenance of a vigilant check on elected representatives and administrators.

The citizen should expect a competent budget authority to prepare a comprehensive budget document. He should make known his wishes before the body charged with considering and adopting the budget plan. Finally, the citizen should insist that a check be made of budget execution. In the course of the budgeting cycle the responsible citizen should be given access to public records and should be entitled to bring legal action for violation of the budget law.

Admittedly, it is difficult for the isolated individual to accomplish much. The basis for successful citizen action is an active citizens' agency, and as long as we have representative government there are bound to be citizen groups. It is impossible, of course, to expect all such groups to use their power for the general good. Indeed, many sins are committed in the name of the citizen. Some taxpayer organizations, for instance, in an attempt to reduce taxes devote their entire attention toward perpetuating property tax limitation laws. A responsible citizens' agency, however, will attack the problem directly through the budget. Furthermore, it will have a long run view, counting the benefits of government as well as the costs. It will combine research with education and give support to those officials who are striving for efficient and economical government.

In conclusion it may be repeated that the average American citizen is interested in receiving a dollar's worth of service for his tax dollar. The budgeting process should be geared to reconcile the citizens' service demands in a way that the most advantageous balance between private and public activities is achieved. Furthermore, the mechanics of public budgeting should be improved to make the entire process more effective. In this improvement the citizen who receives the benefit must take an active part in supporting and even leading budget reform measures.

Editor's Note.—Address before conference of the Governmental Research Association, Princeton, New Jersey, September 5, 1941.

On the Local Front

Nutrition poll shows what average city family eats—and doesn't eat.

Prepared by the Office of Defense Health and Welfare Services
Federal Security Administrator Paul V. McNutt, Director

ZILPHA C. FRANKLIN, Editor

PROBABLY very few city families make a habit of eating all the protective foods necessary for health and strength, according to a preliminary report on a recent nutrition poll. The survey, made by Crossley, Incorporated, at the request of the Office of Defense Health and Welfare Services, was conducted in South Bend, Indiana, where an intensive community nutrition program is now under way.

The eight basic food groups about which South Bend housewives were questioned are those listed as daily "musts" in the national nutrition food rules recommended by the nation's leading nutritionists: milk and milk products; oranges, grapefruit, tomatoes, raw salad greens; green or yellow vegetables; other vegetables and fruits; whole-grain products or enriched white bread and flour; meat, poultry, and fish; eggs; butter and other spreads.

Only a small percentage of the families interviewed use all eight essential groups daily; but the survey shows that a third of the housewives use at least seven of them in the average day's meals and another third use six. Meat, vegetables (other than green or yellow), and butter are the three groups reported most frequently in the average day's meals.

Children seem to fare much better, nutritionally speaking, than adults. This is especially noticeable in the findings on milk and milk products. Approximately 95 per cent of housewives with children believe that milk products

should be served daily, whereas no more than 80 per cent of adults without children believe they need milk or milk products every day. Nine out of ten families with children claim to drink milk at least five days a week but only about five out of ten families without children say it is served that often.

This relationship between the use of milk as a drink and the age of the individual continues among adults; young housewives seem to use more milk than those who are older. Nearly 90 per cent of those under twenty-five serve it to their families practically every day, but it is used by only about 85 per cent of those from twenty-five to forty, less than 75 per cent of those from forty to fifty-five, and about 40 per cent of those over fifty-five. Though the survey makes no interpretation of these figures, they seem to suggest that the milk-drinking education begun about twenty-five years ago has had a very real effect.

Enriched bread and flour seem in South Bend to be gaining public recognition, though the nutrition poll indicates that their value is not yet fully appreciated. Bakers and millers have placed these new products on the market in response to an urgent appeal from the National Research Council and other national nutrition authorities.

A breakdown of the survey on this food group shows that both enriched bread and flour are already recognized by many housewives as superior to

plain white bread and flour. This may probably be attributed to the intensive educational campaign being waged by government nutrition agencies. Co-operation on the part of the millers and bakers has also helped.

About 75 per cent of the housewives interviewed had heard of enriched bread; about 20 per cent had not, and the remainder were uncertain. Slightly more than half definitely remembered having purchased enriched bread; about one-third did not remember. Some families were found to have enriched bread in the house even though the housewife failed to remember buying it.

The Crossley figures on use of enriched flour are comparable to those for enriched bread, with some 70 per cent of the housewives having enriched flour in the pantry. The survey also shows that about 60 per cent correctly stated that enriched flour and bread are the same color as the plain white varieties, their food value being much enhanced.

Meat Group in Lead

The meat, poultry, and fish group leads in daily use, according to this preliminary report. The findings indicate that about nine out of every ten families include some sort of meat dish in the average day's meals. This is the highest frequency for any of the eight protective food groups.

The most popular meats seem to be beef, veal, lamb, ham, and pork. About half the women interviewed said they served something from this group nearly every day. But fowl, liver or kidneys, and fish also seem to make at least weekly appearance on about half of South Bend's dinner tables. Nutritionists stress the fact that the thriftier selections have just as much health value as those higher priced, and that dishes made with beans, peas,

or nuts may be used occasionally as alternatives.

The eating preferences revealed by this cross-section survey fail significantly to tally with some of the national nutrition food rules. One example cited the relative use of oranges and grapefruit, as against tomatoes, cabbage, and other raw salad greens. Nutritionists say all these foods have similar values from the protective point of view. But though at least nine-tenths of the housewives participating in the survey know that their families should have some of these foods every day, less than three-fourths of them actually serve them in the average day's meals.

Oranges and grapefruit appear much more frequently on their tables than either salad or tomatoes; the relative frequency might be roughly stated as one for tomatoes and tomato juice, two for the cabbage and salad group, and three for citrus fruits. The regular use of the citrus fruits by so many families is encouraging in the opinion of nutritionists. But, it is pointed out, more people need to know that tomatoes and cabbage grown locally over wide areas are acceptable alternatives with similar protective values. This is particularly important information for the housewife who must see that her family is well fed on a modest budget.

The same failure to realize the nutritional importance of certain vegetables is reflected elsewhere in the findings. Apparently a great many women still do not know that the green and yellow vegetables are particularly high in protective vitamins and minerals. The National Nutrition Food Rules recommend one or more big helpings of such vegetables every day, along with ample servings of other vegetables and fruits.

Yet in South Bend, and no doubt in other parts of the country, the white

potato is eaten more frequently than any other vegetable. Eight out of every ten of the housewives to whom the interviewers talked serve potatoes practically every day. This is a good showing in the opinion of nutritionists. But the picture is different for green and yellow vegetables; these are included in the average day's meals in only about half the families. A substantial number, perhaps as much as a third to a half, of the total women interviewed, say they never serve spinach or similar leafy vegetables.

There also seems to be considerable room for improvement even in getting all the good out of the vegetables which are used fairly frequently. Only about one-third of the women interviewed believe the tops of beets have high nutritive value and for turnip tops the ratio is only about one-fourth; one-half of these housewives believe the skins of baked potatoes have high food value.

These preliminary findings underscore the importance of the national nutrition program and of local activities undertaken as a part of this nationwide campaign.

A real improvement in nutrition should result from the many activities now under way. Every community and every family that demonstrates how to utilize its food resources wisely is making a real contribution not only to its own health, but also to the nation's all-out war effort.

Industrial Hygiene Conference

The recent Fifth National Conference of Industrial Hygienists held in Washington pointed up the need for greatly increased efforts to care for the health of industrial workers both in the plants and in the home.

Paul V. McNutt, Federal Security Administrator, told the conference that

80,000,000 working days, or enough to build 14,000 bombers, 33,000 tanks, or ten great battleships in the next year, could be saved if adequate health measures were taken immediately in the country's war plants. "Four hundred million working days are marked off every year because of workers' illnesses. All the delays from supply shortages, bottlenecks, labor troubles, and sabotage combined will scarcely total in a year the destructive power of our wildest saboteurs—disease and injury—which operate day and night in every plant in the nation," he said.

The conference was told by Assistant Surgeon-General Joseph W. Mountin of the Public Health Service that medical services in certain war centers were so inadequate that doctors, nurses, and dentists might have to be drafted from other communities.

Labor's spokesman at the conference was Ralph D. Hetzel of the CIO who suggested a further expansion of union-sponsored industrial health programs. Andrew Fletcher, vice-president of the St. Joseph Lead Company, representing industry, expressed the conviction that when the interest of management and employees has been sufficiently aroused and information and facts are available, absenteeism will be lessened, and thereby we will reduce the great wastage to employees due to loss of wages, to industry due to loss of earnings, and to our country due to loss of production.

The conferees expressed special concern with two phases of industrial health: the health problems created by large, sudden influxes of population into war industrial areas, and the problem of providing adequate health services in small industrial plants.

The conference recommended

1. That the Public Health Services

take leadership in mobilizing facilities in war industrial areas. The Industrial Hygiene Unit of the Public Health Service and the Sub-Committee on Industrial Health and Medicine of the Office of Defense Health and Welfare Service should effect a closer coöperation with state and local health officials in order to make more public health services available to industrial workers and their families.

2. That the present program of research, training, and technical assistance in industrial health to war industry be expanded in order to meet

present and future need. This resolution pointed out that almost none of the small industrial plants employing less than five hundred have medical, engineering, or nursing services. Since a large majority of the workers are employed in such plants, and even more will be soon, this situation presents a serious health problem. The conference therefore recommended that governmental industrial hygienists undertake to develop plans and promote the voluntary establishment of medical, engineering, and nursing services in small plants by industry.

Letters to the Editor

To the Editor of the
NATIONAL MUNICIPAL REVIEW:

Keep on giving us essays like Overstreet's "Leadership in a Democracy" in the REVIEW from time to time. Which reminds me: I feel greatly in your debt for reprinting from *PM* some time ago "Democracy Is for Fighting Men." Iowa State College JOHN A. VIEG

To the Editor of the
NATIONAL MUNICIPAL REVIEW:

Referring to the article in the current number of the REVIEW under the heading, "British Utilities Weather The Blitz," I am enclosing thirty cents in coin for which you will kindly send me as many "tear sheets" of this particular article as the payment warrants.

This is a very interesting article and I am very glad that you published it. Thank you!

Atlantic City, N. J. ALBERT T. BELL

To the Editor of the
NATIONAL MUNICIPAL REVIEW:

...Ever since I became acquainted with the nature and scope of the good work being performed by the National Municipal League I have been able to take a firmer hold on life in the knowl-

edge that someone was really working in an intelligent manner to preserve democracy. . . . GEORGE R. JARVIS
Sylvan Lake Village,
Pontiac, Michigan

To the Editor of the
NATIONAL MUNICIPAL REVIEW:

Over the weekend I have been privileged to read the fourth edition of *Model State Constitution* published by your organization.

It is a wonderful product. It naturally would be, coming from the students of constitutional law who made up the committee. In many of its details it would not be appropriate to our state, still, as a model skeleton constitution, and in most of its details, it seems very adaptable.

In our revision work and in legislative drafting we maintain that the law speaks in the present. It seems to us that in drafting your model constitution you have made too free use of the future indicative and of the passive rather than the active verb.

WILLIAM B. HENDERSON
Revisor of Statutes

State of Minnesota

Contributors in Review

PUBLIC utilities have been the chief interest of **John Bauer** (*Supreme Court Hints New Utility Rate Base*) for many years. In addition to his directorship of the American Public Utilities Bureau since 1925 he has a long list of appointments to his credit a few of which include: utility rate adviser to New York City; economic consultant to the New York Legislative Commission on Revision of Public Service Commissions Law; economic consultant to South Carolina Power Rate Investigating Commission; valuation expert for the U. S. Department of Justice; adviser, public utility service, North Carolina League of Municipalities. Dr. Bauer has made utility surveys for several large cities and is author and co-author of numerous articles and books. Among the latter are *Public Utility Valuation for Purposes of Rate Control*; *The Electric Power Industry, Development, Organization and Public Policies*; and *National Welfare and Business Stability*.

CALIFORNIA has been the scene of both the education and teaching experience of **Winston W. Crouch** (*Are There Too Many Cities?*). He received his A.B. and M.A. from Pomona College and his Ph.D. from the University of California, Berkeley. He has taught at Occidental College and Pomona, and is now assistant professor of political science at the University of California at Los Angeles. In addition to numerous articles appearing in the *NATIONAL MUNICIPAL REVIEW* and other publications, Dr. Crouch has two books to his credit: *State Aid to Local Government in California* and (with V. O. Key) *The Initiative and Referendum in California*.

THE material contained in this month's article by **Grover Wm. Ensley** (*A Citizen's Observations on State and Local Budgeting*) was gathered while its author was a Sloan Fellow and later when he was an employee of citizens' organizations. Mr. Ensley was in the first Sloan Fellowship class of the University of Denver's Department of Government Management in 1938-1940, where his field work included an exhaustive study of the government of Albany County, Wyoming. On receiving his Master's degree from that institution he joined the research staff of the Tax Foundation, New York City, specializing in public budgeting and publishing various pieces on the subject. He is now fiscal agent with the U. S. Bureau of the Budget.

THE article in this month's *REVIEW* entitled *Canada Regulates Wages, Prices* has been prepared by a staff member of the Canadian National War Labor Board. Mr. R. H. Neilson, secretary of the board, writes that while it is the policy of the board to preserve the anonymity of those preparing such material, "the member of the staff who compiled the article is a former well known writer and lecturer on subjects appertaining to economics."

News in Review

City, State, Nation

Edited by H. M. Olmsted

Manager Cities to the Fore in Fire Prevention

Cincinnati Wins First Place in Inter-Chamber Contest

CITIES under the manager plan won the grand award as well as two first places out of six population groups in the 1941 Inter-Chamber Fire Waste Contest, sponsored by the Chamber of Commerce of the United States and the National Fire Waste Council, and participated in by more than five hundred cities.

The grand award for the most notable work on fire prevention and protection went to Cincinnati, which likewise took first place in the 250,000-500,000 population group. In the latter group two other manager cities, Rochester, New York, and Toledo, Ohio, received honorable mention.

First place in the 100,000-250,000 group was won by Wichita, Kansas, with two other manager cities—Grand Rapids, Michigan, and Oklahoma City receiving honorable mention. In four groups non-manager cities won first places as follows: over 500,000, Milwaukee; 50,000-100,000, Lakewood, Ohio; 10,000-50,000, Parkersburg, West Virginia, and under 20,000, Valley City, North Dakota. However, in these four groups nine manager cities received honorable mention: in the 50,000-100,000 group, Schenectady, New York, Alamazoo, Michigan, Berkeley and Stockton, California, and Roanoke, Virginia; and in the 20,000-50,000 group, Newburgh and Watertown, New York, Muskegon, Michigan, and Gasparilla, North Carolina.

Selection of winning cities took into account achievements in reducing fire losses, intensive educational work in fire prevention, organization for fire defense, and permanent improvements to eliminate fire hazards.

Winners in City and County Health Contests

Winning cities and counties in the National Health Conservation Contest, conducted jointly by the Chamber of Commerce of the United States and the American Public Health Association, were announced on April 16.

The cities making the best showing are, in alphabetical order: Detroit, Michigan; Evanston, Illinois; Greenwich, Connecticut; Hackensack, New Jersey; Hartford, Connecticut; LaSalle, Illinois; Louisville, Kentucky; Madison, Wisconsin; Memphis, Tennessee; Milwaukee, Wisconsin; Newton, Massachusetts; Racine, Wisconsin; Reading, Pennsylvania; Schenectady, New York. Two of these, Hackensack and Schenectady, have council-manager government.

The counties that led in the rural health contest are: Alger-Schoolcraft Counties, Michigan; Arlington County, Virginia (county manager); Davidson County, Tennessee; Fayette County, Kentucky; Forsyth County, North Carolina; Gallatin County, Montana; Gibson County, Tennessee; Glynn County, Georgia; Lauderdale County, Mississippi; Madison County, Kentucky; Saginaw County, Michigan; Santa Barbara County, California; Thurston and Whitman Counties, Washington.

Council-Manager Plan News

On April 14 **Palm Springs, California**, which has been operating under the manager plan by ordinance of council for the past year, approved the plan by popular vote.

The town of **Mechanic Falls, Maine**,

at its annual town meeting in March, voted to employ a town manager.

In **Gloucester, Massachusetts**, the committee appointed by Mayor Ross last December to study the manager plan expects to place it before the voters for a referendum at the November election. Petitions have been prepared for circulation; approximately 1,200 signatures of registered voters are necessary.

A referendum election on the city manager plan will be held in **Newark, New Jersey**, on May 26.

The manager plan was featured at a meeting of the **Anderson, South Carolina**, Rotary Club on April 7. It was explained in detail by J. A. Raffield, city manager of Sumter, South Carolina, which pioneered with the manager plan in 1912.

The city commission of **Berkley, Michigan**, voted on April 2 to call a special election for June 2 on the question of revising its ten-year-old charter to provide for a city manager. Nominating petitions for a nine-man charter commission must be filed by May 2; if more than eighteen file petitions the June 2 election will constitute a primary to eliminate all but eighteen who will be voted on finally in September.

In **Grand Island, Nebraska**, on April 7 the voters disapproved a proposal for a charter convention to revise the present home rule charter to include the manager plan.

In **St. Louis, Michigan**, a charter revision commission was elected on April 6, the vote for revision being 546 to 309. The Citizens Committee for Charter Revision has been advocating the council-manager plan.

City Planning Agencies Numerous; Aid War Effort

City planning commissions or similar agencies are found in nearly three-

fourths of the cities with more than 25,000 population, according to a recent survey by the International City Managers' Association. These agencies, some of which have been in existence for many years, are of special use today in working out solutions for housing, sanitation, and transportation difficulties which arise in cities undergoing sudden expansion because of war industries or army camps in the vicinity.

The Atlanta and Fulton County Planning Commissions, for example, were called in for advice on selection of a site for a new airplane plant. Recently the Detroit City Plan Commission, with other municipal planning agencies in the area, was consulted on problems in connection with the new "war-made" community of Willow Run.

The percentage of cities with planning agencies varies directly with the size of the city; each of the fourteen cities of over 500,000 population is so equipped, while only 64 per cent of the cities between 25,000 and 50,000 have established such agencies. In about two-thirds of the cities appointments to the planning board are made by the mayor, and in about 20 per cent by the council.

More than half the cities reported that they had master plans in some stage of development, though in 43 per cent the plans are still in a preliminary stage, and in only one-third of the cities have the plans been approved by the council. A majority of the cities also reported long-range public work programs under way, most of them with aid of the federal Public Work Reserve program.

Though the urban part of the nation is well supplied with planning agencies, a large share of the agencies have little or no funds and lack adequate technical staffs, according to the survey. Less than one-fourth of all cities report

g said they had full-time planning staff members. In most cases, especially in the 25,000-50,000 population cities, full-time city employees such as engineers, draftsmen, and clerks devote part of their time to the work of the planning agency.

Kentucky Authorizes Municipal Electric Systems

The Kentucky General Assembly has adopted a law which empowers every county, city, and other municipality to establish its own electric system. It is probably the most comprehensive statutory provision in the country for the establishment of municipal ownership. While several Kentucky municipalities already own electric systems, these were established under special legal provisions, without a comprehensive enabling act.

First, the municipal system is organized under a "Board of Public Utilities." This is legally a body public and corporate, with powers and duties to establish the municipal electric system and to control operations within the terms of the act. It consists of four citizen members and one representative of the governing body (or city manager), each appointed by the mayor or chief executive with the approval of the governing body.

Second, the Board appoints a superintendent who has administrative control over operations, "who shall be qualified by training and experience for the general superintendence of the acquisition, improvement, and operation of the electric plant." His salary is fixed by the Board, and he is removable for inefficiency, neglect, misfeasance or malfeasance. He appoints his assistants and subordinates within the policies fixed by the Board.

Third, the act provides especially for the acquisition of the existing electric

properties owned by a private utility company. The procedure may be by negotiation or by the findings of a valuation board, or by condemnation proceedings. The valuation board is representative of the company and the municipality; its findings are not binding upon either party, but it is intended to bring about agreement. If, however, this cannot be attained, condemnation is provided for.

Fourth, in addition to the acquisition of existing properties, the Board has power to construct, lease, and otherwise acquire properties that are needed to establish the municipal system. It has also full power to operate the properties, to enter into contracts relating to operation, to own and operate properties in contiguous municipalities subject to agreements with them, and to enter into an agreement with the Tennessee Valley Authority for the purchase of bulk power.

Fifth, the acquisition of the privately owned properties and the construction of new plants may be financed by revenue bonds, which are not a debt of the municipality. Their issuance, like the acquisition itself, is subject to approval by the electorate, by a majority of the persons voting.

Sixth, operation must be financially self-sustaining. Rates are fixed by the Board, but they must be high enough in their entirety to cover operating expenses (including maintenance), due provision for depreciation, tax payments or equivalents, and amortization of bonds. Each system must pay to the state and to each municipality or tax collecting unit, taxes equal to the regular tax rate applied to the net plant cost (the acquisition cost of the properties less a proper reserve for depreciation). In addition, reasonable operating reserves may be provided and a return of 6 per cent may be paid

to the municipality on its net equity in the plant. This allowable return, however, is more theoretical than actual, for the equity consists of the gross plant costs less accrued depreciation and outstanding bonds, and without including plant payments made out of earnings; hence no actual equity can appear as a practical matter. All surplus earnings must be applied exclusively to rate reductions. The objective is to furnish electricity at a minimum cost within the standards of fully self-sustaining operation, and except for the tax equivalents, not to contribute to the general municipal budget for the relief of taxpayers or other purposes.

JOHN BAUER, *Director*
American Public Utilities Bureau

State Commission to Administer Local Merit System

Rye, New York, is the first city in that state to elect that the provisions of the 1941 civil service law (requiring adoption of the merit system by cities and counties) be administered by the State Civil Service Commission instead of a local commission.¹

Municipal Government Course in Milwaukee

A short course in municipal government, in connection with defense training efforts, began at Marquette University in Milwaukee on March 11 to continue on Wednesday evenings for eight weeks. It is sponsored by the Milwaukee Government Service League, and is for city and county employees in the Milwaukee area. No collegiate credit is given. Subjects include municipal government in war time, financing local government, public health and welfare,

public safety, education and cultural services, recreation, public works, and planning.

Programming for Local Public Works

Under the joint authority of the Federal Works Agency and the National Resources Planning Board there has been established the Local Public Works Programming Office, effective April 1, which supersedes the former Public Work Reserve. The objectives of the new agency are to collect information concerning advance construction plans and estimates by states, municipalities, and other public agencies and to consult with state and local agencies in developing orderly programs of non-federal public works; to aid such agencies to formulate planned programs of public works based upon information regarding real community needs and anticipated financial resources; and to assemble programs formulated by non-federal government agencies on the basis of which a determination can be made of the amount and kind of public works that can be undertaken during the coming six years.

To achieve these objectives, encouragement, counsel, and assistance will be given responsible officials of local governments in the formulation of long-range public works programs. The operating personnel of the office, to be set up on a national, regional, and state basis, will provide this assistance rather than formulate such programs themselves.

The sponsoring agencies will determine the nature, extent, and financing methods of their future work programs, and will be encouraged to reformulate their programs annually. Only those revenues from local, state, or federal sources that are now in sight

¹See also "New York Counties Plan Merit Systems," NATIONAL MUNICIPAL REVIEW, April 1942, p. 233.

and have become established on a continuing basis may be anticipated in drawing up future plans. The effort throughout will be the development of a public works program based upon a real plan for community growth.

New York Legislature Acts on Reapportionment

At the end of this year's session of the New York State legislature, on April 24, a congressional reapportionment measure, setting up new districts for members of the national House of Representatives, was finally passed. It had previously been defeated in the state Senate, along with a reapportionment bill to establish new districts for members of the state legislature.

The congressional reapportionment bill was suddenly revived when it was pointed out that Congress itself might intervene to require election of all representatives at large or to redraw the district lines, which had remained the same except for minor changes since 1911. Two congressmen have been elected at large since 1932, with forty-three elected from districts.

The bill passed does not take effect until 1944. It provides for forty-five districts. The chief shifts are made among the boroughs of New York City.

The last general redistricting for the state legislature was in 1917.

With legislative reapportionment defeated in the New York State Senate, Thomas C. Desmond of Newburgh, a leading Republican state senator, advocated a constitutional amendment to turn the task of revising legislative districts over to the Court of Appeals, highest court of the state. This proposal would concern only the districts for the State Senate and Assembly inasmuch as the federal constitution provides that the manner of electing congressmen shall be prescribed by

the state legislatures or by Congress. The proposal was not adopted.

Kentucky Furthers City-County Cooperation, Civil Service, Blight Removal

The Kentucky legislature at its recent session authorized cities and counties to consolidate their purchasing systems and place them under civil service.

Other important bills adopted covered the establishment of the merit system for departments of safety, health, welfare, and civil service; creation of a city and county board of health; and authority for the formation of private urban redevelopment corporations with power to condemn property for slum abatement rehousing projects.

Public Service Training Aided by NYA

A California committee of twenty university and governmental administrators, which has directed an experimental program during the last year and a half whereby selected college students working under the National Youth Administration give part-time service in government offices, is recommending extension of the plan on a national scale.

In lieu of working at usual NYA jobs on the campus, certain students in some seventeen California colleges and universities were employed under this program to serve as "fellows" in several branches of federal, state, county, and municipal governments in that state.

Professor Edwin A. Cottrell of Stanford University, acting chairman of the committee, points out that this employment enables the student to gain practical experience along with his academic training, and emphasizes that in the post-war reconstruction period

some sort of public service reserve should be built up to absorb the millions of youths who will no longer be needed for war pursuits. One need will be the filling by trained personnel of positions in all governments for the prosecution of a public works reserve program.

In the first year of operation in California, 103 students throughout the state were employed under the public service program, and at present 275 students are in selected part-time assignments in government offices, supplementing the work of regular employees. Types of experience gained include accounting, statistical work, nursing, laboratory techniques, personnel management, welfare work, planning commission and engineering drafting, planning inventories, legal research, foreign trade studies, and labor disputes. Many of the trained students have important places in war activities.

Courts Expand Scope of Police Power Regulation

By two recent Florida decisions the doctrine that private business and property may not be regulated under the "police power" upon aesthetic grounds has received another blow.

The two cases are *Hav-a-Tampa Cigar Company v. Johnson* and *John H. Swisher & Son, Inc. v. Johnson*.¹ Both cases sustain the restrictions of the Florida, 1941 outdoor advertising statute.²

These decisions deserve a niche beside the great Massachusetts billboard decision of January 1935.³ What they lack in unanimity of view (two jus-

tices dissented) they make up in their express references to aesthetics as a legitimate basis for reasonable regulation of private business and property and their assertion of the right and duty of the police power to protect the "comfort, common good, and general welfare of the public," as well as its "safety, health, and morals."

Both were suits by cigar manufacturers with roadside billboards of their own (not space rented from commercial billboard firms). In the second case a private landowner who had rented a site to a cigar manufacturer was joined as a party plaintiff. The suits were brought to enjoin the State Road Department from enforcing the provisions of the billboard statute. In both cases (coming to the Florida Supreme Court from different counties) the Circuit Courts had dismissed the complaints and in both cases the decisions below were affirmed.

Repeatedly do the five justices who agree in support of the Florida regulations refer to the traffic danger arising from the distraction of attention by advertising signs along the highways. This danger to public travel has been recognized in decisions of other courts.

Chief Justice Brown, specially concurring in the opinion by Justice Whitfield, stated in the second case that if it were necessary to the decision of the present cases or in order to support the 1941 regulations, he would be in favor of overruling the opinion in a previous billboard case.⁴ He said:

I think the time has come to make a candid avowal of the right of the legislature to adopt appropriate legislation based upon these so-called aesthetic, but really very practical, grounds. . . . The location, size, and character of the sign should be taken into consideration.

Chief Justice Brown recognizes the

¹Both decided December 19, 1941 (rehearings denied January 21, 1942), and reported in 5 So. (2nd) 433-446.

²Florida Acts 1941, Chap. 20446.

³See NATIONAL MUNICIPAL REVIEW, February 1935, p. 117.

⁴*Anderson v. Shackelford*, 74 Fla. 36

"right of view of the natural beauty of the surrounding country" and assigns to the desire to protect this right of view certain of the purposes and details of the statute. He accordingly upholds all the restrictions in the statute, some of them upon the ground of protecting the public safety and others upon aesthetic grounds. Justice Whitfield, who wrote the opinion in both cases, refers to the validity of regulations for the "comfort" of the traveling public. Five justices agreed.

Another important feature of the decision is that it supports the "retroactive" regulation. Enforcement of the new statute will require the removal or relocation of hundreds, probably thousands, of signs. Private contracts for the leasing of billboard sites are held to be subject to the exercise of the police power in the public interest. The existence of such contracts neither prevents nor postpones the exercise of the state's power of regulation.

These Florida decisions recognizing public aesthetics as a basis for the exercise of the police power are in line with three other recent opinions in courts of first instance:

Preferred Tires, Inc. v. Village of Hempstead, 173 Misc. (N. Y.) 1017; same case, 19 N. Y. Supp. (2d) 374; *People v. Sterling*,⁵ and *Monterey County v. Bassett*.⁶ Moreover, it should not be forgotten that one of the fifteen billboard cases involved in the great Massachusetts decision was a case of aesthetics pure and simple. The deci-

sion sustained a refusal to extend the permit of a Chevrolet roof-sign in the State House neighborhood and overlooking Boston Common, for the sole reason that the sign was incongruous with its dignified neighborhood.

Handbills and Police Power

In another recent case—that of *Valentine v. Chrestensen*, decided April 13, 1942—the U. S. Supreme Court distinguishes between free press and free speech in civic, governmental, and non-commercial matters, on the one hand, and attempts by business to advertise itself, on the other.

Chrestensen owned a former U. S. Navy submarine, which he brought to New York and moored at a state pier in the East River. He attempted to distribute in the streets handbills advertising the boat and soliciting visitors for an admission fee. This distribution was prevented by Police Commissioner Valentine. Chrestensen brought suit to restrain the police commissioner, claiming a violation of his rights under the fourteenth amendment to the U. S. constitution. The U. S. District Court had upheld Chrestensen, and by a divided decision so had the U. S. Circuit Court of Appeals. The Supreme Court now reverses the decision of those courts.

Justice Roberts, writing for a unanimous court, said:

This court has unequivocally held that the streets are proper places for the exercise of the freedom of communicating information and disseminating opinion, and that though the states and municipalities may appropriately regulate the privilege in the public interest, they may not unduly burden or proscribe its employment in these public thoroughfares. We are equally clear that the constitution imposes no such restraint on government as respects purely commercial advertising.

ALBERT S. BARD, *Counsel*
National Roadside Council

⁵Unreported comments of the late Justice Erskine C. Rogers of New York Supreme Court, from the record of the trial June 10-11, 1940. Quoted in *Roadside Bulletin* of the National Roadside Council, Nov. 1940. (There mistakenly attributed to Justice Bliss.)

⁶Unreported opinion of County Judge Maurice T. Dooling, Jr., (Calif.) Oct. 1938. Quoted in NATIONAL MUNICIPAL REVIEW, Dec. 1938, p. 619.

Citizen Action

Edited by Elwood N. Thompson

Kansas City Citizens Rally to Whip Machine

New Citizens Association Plans to Consolidate Election Gains

IT TOOK six years of citizen effort for Kansas City to rid its municipal government of "machine" domination. Success, finally achieved in the spring of 1940, was the result of the battle waged by the United Campaign Committee. A city council headed by Mayor John B. Gage was elected, and the accomplishments of that administration, pledged to administer government honestly and in accordance with "the letter and spirit" of Kansas City's nonpartisan charter, were remarkable.

Unfortunately, citizen support became disorganized immediately following the 1940 election. The Charter Party, intended to be a permanent nonpartisan group, dissolved. Most of its workers joined with partisan Democratic groups to form the United Democratic Club whose object was to destroy the machine hold on Jackson County government in an intra-party primary fight in August 1940. In this they failed and the machine followed through to win the general county election in November 1940. This left the machine intact to wage a comeback fight in the next city election.

No effort was made immediately to rebuild a citizen group to support the city administration. On the other hand, the United Democratic Club and the Republican party vigorously pursued a policy of increasing party worker personnel among city hall employees on the theory that the machine could not

be held at bay except by a strong counter-organization of such employees. Definite organization antagonism against the mayor and certain councilmen developed because they would not participate in this partisan organization effort. Some of the councilmen temporarily subscribed to the theory, and for a while "dabbled" in political patronage. Citizens were kept alert to the issue, however, by the Civic Research Institute bulletins and the Public Affairs Forum.

As the fall of 1941 wore on without organization of citizen support of the administration a general public concern developed. Many became convinced that, if the Republicans and United Democrats did not both agree to coalition support of the administration, machine success in the 1942 spring city election was certain. It was not until early December 1941 that eighty citizens sent a joint letter to some one thousand others calling a meeting to form a **Citizens Association**.

This meeting, held December 14, resulted in the election of the writer as chairman with authority to appoint an executive committee, open headquarters, and conduct conferences for a coalition. This was done, but citizen apathy, Pearl Harbor, and the holiday season contributed to make the picture anything but encouraging.

The United Democratic leadership, holding fast to its counter-machine theory, refused to support for reelection certain councilmen who had shunned political activity, and conferences with that leadership had to be terminated. Some of the Republican leaders took such a partisan position that coalition with that party was likewise impossible unless they receded.

As the deadline for filing nominating petitions approached the Citizens Association was forced to adopt and an-

ounce independently a three-point program: (1) Nomination of Mayor Gage and council candidates, the majority being incumbents, who would carry on the administration's policies; (2) organization of the Citizens Party to secure the legal right to watchers and challengers at the polls; (3) re-adoption of the platform of 1940 with an added pledge to submit charter amendments to vote of the people, including a "Little Hatch Act" provision, at the November 1942 election.

Other Groups Give Support

Finally the majority of the Republican organization announced support of this platform and ticket. Likewise the Independent Democratic Association was organized and announced support. These three groups nominated representatives on the Citizens Campaign Committee to campaign for the election of the "Citizens Ticket," against the "United Ticket," supported by the United Democrats and two former machine factions, and against the machine ticket. A small group of Republicans refused complete support, nominating candidates to oppose two of those on the Citizens Ticket.

A few city employees volunteered to work for the Citizens Ticket. Many others took no active part in the campaign. But strangely enough most of those who worked supported the United Ticket. Some even worked with the machine organization. It was possible to organize only a skeleton force of Citizen workers by the time primary day, March 10, arrived. The women, however, as in 1940, organized effectively, again under the leadership of Mrs. George H. Gorton, and did a remarkable job of "selling" the program to the voters through letters, polling, and telephoning. They are again entitled to a major share of credit for the result achieved.

Weakness of the Citizen workers organization necessitated a vigorous radio campaign. Likewise *Citizen Sun* newspapers were circulated citywide by paid services. The local press publicized in an excellent manner the administration's accomplishments. At meetings, in the press, and over the radio, the issue of "visible government" against "invisible government" was pounded home. Just before election a postcard, listing the Citizens Ticket candidates and the polling place of the particular voter, was mailed to every registered voter in Kansas City. Return postage was guaranteed, and returned cards were rushed to precinct workers as a basis for challenging.

An independent nonpartisan campaign by the Chamber of Commerce, the Junior Chamber of Commerce, the A. F. of L., and the C. I. O., urging the people by payroll inserts, billboard ads, and radio spot announcements, to "vote as you please, but vote," was most effective, and undoubtedly helped to swell the total vote cast.

The primary or elimination election results startled everyone! The "walk-in" vote was phenomenal. The total vote was in excess of the most optimistic pre-election estimates.

The United Party failed to nominate a single candidate. The machine, functioning with full precision, ran a poor second. Mayor Gage and most of the Citizens Ticket candidates polled more votes than their combined opposition. Two of the Citizens' candidates in districts where the machine is strongest ran second but were nominated.

Support flocked to the Citizens Ticket for the general election on March 31. Two factions of the United Party announced their support. Many who lacked confidence during the preparatory campaign came out publicly for the administration, as did all the de-

feated candidates. In the general election all but one of the Citizens' candidates were elected.

Given honest and efficient election and police boards, the answer to machine control of Kansas City's City Hall has involved: (a) conviction in the minds of a majority of citizens that party affiliation should not be of controlling influence in municipal elections; (b) nomination of candidates on the basis of personal character and ability, not because of promises of special favor or of "loyalty" to a particular group; and (c) willingness of the citizens, and particularly women, to work unselfishly in political activity.

What of the future? It was a mistake to permit citizen organization in Kansas City to lapse into inactivity following the 1934, 1938, and 1940 elections. A movement is well under way to make the Citizens Association a permanent organization. Progress achieved in the last two years can continue unabated if, and only if, citizen interest generally is maintained.

KENNETH E. MIDGLEY

Campaign Director

Kansas City Citizens Association

Wisconsin Taxpayers' Radio Program in Eleventh Year

"Your Wisconsin Government"—a radio program devoted to information about government and taxation—is now in its eleventh year of production.

The broadcast idea lays no special claim to originality, promotion, or sales appeal; it is based upon the knowledge that people need and want the unvarnished truth about what's happening in state and local affairs, and in national affairs too when they affect Wisconsin folks. No fanfare, no dramatics, nor entertainment enter into the program—the emphasis is on infor-

mation to help citizens form their own opinions about the way their local state affairs are being run, with perhaps an idea or two about better ways of doing things.

The talks originated in 1932 with fifteen-minute broadcasts each week over Wisconsin's state-owned station WHA at Madison. This station, now a division of the University of Wisconsin, has continuously served as the original outlet for the program "Your Wisconsin Government."

Although all the talks are given originally over WHA, whose entire facilities are devoted to education, other stations have been added to the list. The broadcasts are now given independently over ten local Wisconsin stations. These commercial stations all contribute time as a public service feature. Talks are given by local speakers who, like the stations, donate their talents to citizens interested in government.

Broadcasts follow no uniform pattern. When the legislature is in session the work of that body is reported each week. Stress is laid on the arguments which develop for and against major legislation so the listener can understand what is happening and form his own opinions.

When the legislature is not in session the talks include a wide variety of subjects—local government news, new developments in different phases of government, instructions for computing and paying taxes, procedures for appealing assessments, and the like—always attempting to keep the subject timely. Before elections and before budget-making times special broadcasts appeal for citizen participation in government—programs about the sanctity of the right to vote and the citizen's duty toward his government.

At intervals a series of broadcasts is devoted to answering questions sent in

y listeners, a type of program ends in variety, stimulating to the sponsor, and loaded with possibilities for guidance for the listener.

Other broadcasts may deal with reforms. The advantages of city manager government, for example, may be usefully reviewed.

The current series deals with such subjects as the menace of inflation, the necessity for higher federal war taxes, and the reasons for buying more war bonds by individuals. As we prepared our present series of talks, we had in mind a letter from a staff member now with the armed forces, which stated in part:

Can you folks make people realize that this is war, that it is more important that men are being shot full of holes and that thousands of native and some American troops are now in Japanese hands in the Pacific Isles than it is that they have cuffs on their trousers or get outrageous rates of pay or profit? If you can drive home these things, make people realize them, you'll have more than discharged your war obligation.

Especially successful along this line was a recent talk "Are We Good Soldiers?"—a unique type of quiz program in which the listener was requested to answer the questions and grade himself on his contribution to the war effort.

Talks are prepared by the research and editorial staff of the **Wisconsin Taxpayers Alliance** — an independent, non-political, fact-finding institution. Political implications must never be permitted to enter any work of the Alliance.

What is the response to this type of talk? Who listens?

Questions sent in by listeners to be answered over the air come from a typical cross-section of the Wisconsin community. Many listeners — legisla-

tors, public officials, editorial writers, and others—have requested that their names be placed on a permanent mailing list to receive copies of each week's talk. The fact that the program has continued every week for eleven years indicates the Alliance has faith in the informational type of program and also faith in the democratic process of public discussion of important issues.

C. K. ALEXANDER, *Senior Economist*
Wisconsin Taxpayers Alliance

Citizens Budget Group Active in Los Angeles

Forty-eight groups, representing a cross section of the people of Los Angeles County, have for the past five years studied and made recommendations to the County Board of Supervisors on the Los Angeles County budget. These groups, banded together as the **Los Angeles County Citizens' Budget Committee**, to work with members of the Board of Supervisors and the chief administrative officer of the county, Colonel Wayne Allen, and his aides, have made recommendations for economy and efficiency. They have backed up the Board in its efforts toward economy in government, and they have criticized when necessary.

The Los Angeles County Board of Supervisors, by its own desire and with the backing of this Citizens' Budget Committee together with the press and other civic-minded citizens and groups, has been able to plan the county spending program so that the tax rate has shown a small but steady decline since 1938-39.¹

Organizations represented in the membership of the committee include chambers of commerce, taxpayer as-

¹See also "Los Angeles County Streamlined," by Wayne Allen, **NATIONAL MUNICIPAL REVIEW**, April 1942.

sociations, trade associations, women's clubs, real estate associations, and civic and improvement organizations. Its work is planned and directed by an executive committee made up of representatives of nine of the organizations participating. While the Committee is an independent organization, its research is done by the California Taxpayers' Association.

Because representatives of the citizens' organizations making up the Committee are, for the most part, business men and women, the committee holds dinner meetings at the call of the executive committee. These meetings often extend far into the night.

Program of study for the present year, adopted at a Committee meeting on November 18, 1941, and on which recommendations to the Board of Supervisors will be based, includes:

Salary Study Made

1. Study of county salaries in relation to the cost of living and comparison with going rates in private employment;

2. Study of so-called "mandatory" expenditures;

3. Study of possibilities of further accounting mechanization;

4. Study of park areas on a district basis;

5. Study of welfare costs in relation to war prosperity;

6. Study of special districts, including the County Flood Control District.

As a result of study of the first of these items, including a 50 per cent sampling of county salaries, the Committee found that county salaries are relatively higher than those paid in private employment for similar work; that one-fifth of all county employees are now receiving salaries higher than the maximum or fifth step for their jobs (the county salary schedule being on a five-

step basis) and an additional one-fourth of all county employees are at the top pay for the work they are doing; and that although all depression salary cuts have been restored, the Saturday morning off which was established as an offset to salary cuts still prevails.

Pointing out that the reduction in working hours had caused an increase of 10 per cent in salary costs in many offices and especially in institutions, the Committee wrote to the Board of Supervisors: "It is also evident that all-out war is going to require a great many more persons in production than are now engaged. While we know that some employees are now leaving public service to go into defense industries it is our opinion that local government should not discourage this, as defense production is our most vital need. If the county would restore the 44-hour week and use more efficient procedures it could get along with many less employees."

Coöperation with the county government, together with a sound foundation of facts, has been the basis for the Committee's work. Its chairman, Harry H. Baskerville, former president of the Los Angeles City Board of Education, has well said:

"I believe one of the reasons for the success of the committee's work has been that it has taken a constructive and coöperative attitude with public officials. It has tried to gather and understand the exact facts, to base its recommendations on reliable information, to take the long view on problems of the county government, and to be in the position of favoring a good budget rather than simply opposing a bad budget."

JESSIE K. GRANT, *Editor*

The Tax Digest

California Taxpayers' Association

Roundup—

Just how good a wartime citizen are you? This is the question which the editors of *The Citizen*, publication of the **Citizens' League of Port Huron, Michigan**, ask of their readers. They have assembled a checklist of items which would probably find most of us wanting in one or more respects. Just to find out how you stand, we suggest you get hold of the March issue and test yourself.

The taxpayers associations in Massachusetts were among the first to recognize the need for clear and attention-getting presentations of the results of their research. . . One of the best promotion leaflets we have seen lately is entitled *Indifference: A Sixth Column Menace*, issued by the **Lynn Taxpayers' Association**. . . Along the same lines the **Pittsfield Association** is assisting the city administration in the development of a new streamlined annual city report to be issued soon. The report, which will be illustrated, will cost less than twenty cents per copy and will be distributed by the city to ten thousand taxpayers. Quite a contrast to previous reports which came to over ten dollars apiece and of which about two hundred copies were usually printed. . . Any effort to simplify municipal reports and make them more readable is certainly a worthwhile activity for a citizen organization.

And while we're on the subject of Massachusetts, the **Greenfield Association** has an idea which sounds good for a New England community. That organization sponsored a "Town Meeting Preview," a series of meetings held prior to the annual town meeting, at which issues likely to come before the meeting were discussed and information on them presented.

As a part of its program of concentrating public attention on the im-

portance of Congress and the forthcoming Congressional elections, the **National League of Women Voters** is conducting an ingenious poll of its own members, the results of which will be announced some time in May. The ballot used in the poll consists of a list of a dozen traits of Congressmen, from which League members are asked to pick the five which most nearly describe "what they want in a Congressman." One of the most crucial questions raised by the ballot is whether Congressmen should "follow their mail" or use their own judgment in voting. The results on this should be interesting.

The **St. Louis League of Women Voters** has turned up on the winning side again. This time the voters of that city accepted an eighty-nine-cent school tax rate (an increase of four cents) after a strenuous campaign in its favor by the League. Techniques employed include the radio, a broadside, and individual promotion in all daily contacts by League members.

The **Yonkers Committee of 100** has issued an excellent little booklet describing its activities and outlining what it has accomplished during the last few years. It is unfortunate that the text could not have been presented in a slightly larger format—merely for purposes of readability.

Another story of citizen organization accomplishment is presented in a large pamphlet entitled *8½ Years with New Haven Taxpayers, Inc.*

We were very much interested in a batch of publications which came in the office the other day — promotion material from the 1914 campaign for a constitutional convention in Indiana. Broad-sides, as well as some technical leaflets on the problems such a convention would face, were included, and we were particularly impressed with how little these problems change from one generation to another. R.M.W.

County and Township

Edited by Elwyn A. Mauck

New York Legislature Approves Westchester County Vote Plan

*Extra Votes Given Board
Members from Large Districts*

THE NEW York State legislature has now approved a bill which is expected to result in a more equitable distribution of the voting strength of the Westchester County Board of Supervisors. The measure was previously acted on by the Westchester board itself, which passed it by a vote of thirty-three to four. Action by the state legislature was necessary since the proposal was in the form of an amendment to the Westchester County charter.

The charter amendment is a substitute for the small board plan rejected by the voters last November.¹ It is the culmination of several years of effort to eliminate the gross inequalities of the present board structure. Instead of changing the number of supervisors, the plan provides merely that additional votes shall be given supervisors from the more populous districts.

The structure of the weighted vote plan is as follows:

<i>District</i>	<i>Present Vote</i>	<i>Proposed Vote</i>
East Chester (town)	1	2
Greenburgh (town)	1	4
Mamaroneck (town)	1	2
Mount Pleasant (town)	1	2

¹See NATIONAL MUNICIPAL REVIEW, September 1941, pp. 545-6, and February 1942, p. 124.

Mount Vernon (city)	5	7
New Rochelle (city)	4	6
Ossining (town)	1	2
Rye (town)	1	3
White Plains (city)	3	4
Yonkers (city)	12	14
All others	15	15
	<hr/> 45	<hr/> 61

Fulton County and Atlanta Plan Jointly

The *News Letter* of the American Society of Planning Officials reports that recently the City Planning Commission of Atlanta, Georgia, and the Fulton County Planning Commission met for the purpose of developing a joint planning program for the Atlanta area. In addition to members of both commissions, the Mayor of Atlanta was present at the meeting.

The following program was adopted with the understanding that, while each commission would concentrate on certain parts, the program as a whole would be executed on a collaborative basis: (1) A post-war works program; (2) completion of the master traffic plan; (3) revision of zones and adoption of a metropolitan area plan; (4) study of neighborhood development problems.

Erie County, New York, Sells Real Estate

In the decade from 1932 through 1941 Erie County, New York, acquired through foreclosure of tax liens 28,519 building lots and 5,601 acres of rural land.¹ The property was appraised at approximately eleven and one-half million dollars. By the end of 1941 the

¹See NATIONAL MUNICIPAL REVIEW, October 1936, p. 589.

county had sold 2,360 lots and 439 acres appraised at nearly \$900,000.

The county is continuing to place on each contract involving sale of a lot a provision requiring construction of a building within a limited period of time and at a specified minimum cost. These provisions have resulted in the construction of dwellings costing a total of \$7,250,000. On the basis of number of dwellings, 70 per cent of the construction in the towns adjacent to Buffalo has been on lots thus sold by the county.

Taxation and Finance

Edited by Wade S. Smith

Chicago Tax Collections Off

Real Trouble Spot Continues to Be Personal Property Tax

TAX collection difficulties in Chicago, which were headline-makers during the economic depression of the early 1930's, may again stand out as a sore spot among the wartime financial problems of American cities. This is indicated by a slump in early collections as reported for Cook County, which collects taxes for Chicago and for all the other governmental bodies within the county's boundaries.

To April 15 this year, only 6.4 per cent of the current real estate tax extension and 3.7 per cent of the current personal property tax extension had been collected, as compared with collections to the same date last year of 9.5 per cent for realty taxes and 5.2 per cent for personalty taxes. Although the penalty date on the first half does not occur until June 1, the slump in early collections may prove significant.

Tax collection troubles in the area spring from a multitude of causes, it

may be recalled, not the least being the disruptive effects of the reassessment ordered by the Illinois State Tax Commission because of alleged gross inequalities in the quadrennial assessment of 1928. Even in normal times in Cook County the levy for one year is put into collection the following year, and this delayed schedule was further retarded by the reassessment, 1928 taxes going into collection in the summer of 1930 and later extensions being put into collection at ten- to eleven-month intervals to catch up on the regular schedule. A normal relationship between the budget year and the tax year was reattained in 1938, but tax collections were not significantly improved thereby.

For most municipalities the period since 1937 has been one in which tax receipts were greatly swelled by the realization of the backlog of delinquencies accumulated during the depression years. It has been an exceptional situation where back tax receipts have not offset or approximately offset current tax delinquency during recent years. In Chicago, however, this has occurred only twice recently—in 1935 and again in 1937—both years in which the accelerated schedule of collections resulted in three penalty dates instead of the usual two.

The year 1941 was one of the better collection years in Cook County. During the year current collections on the 1940 levy amounted to 80.7 per cent, while back taxes collected amounted to 19 per cent of the current levy, bringing total current and delinquent collections to 90.7 per cent of the current levy. For the previous year current collections were 77.2 per cent of the 1939 levy, back tax collections equalled 8.8 per cent of the current levy, and total current and delinquent collections totalled 86.0 per cent of the levy.

An especially favorable feature of the 1941 collection experience was a sharp increase in the collection of delinquent personalty taxes, realization of arrears of personal property taxes rising from \$1,828,846 in 1940 to \$7,828,743 in 1941. Less favorable was the situation with respect to delinquent realty taxes, realization on this item falling from \$16,610,828 in 1940 to \$13,982,362 in 1941.

The real trouble spot in tax collections continues to be the personal property tax. In 1940 total current and delinquent personalty tax collections equalled but 57.3 per cent of the 1939 levy, advancing for 1941 to 69.2 per cent of the 1940 levy. In contrast, total current and delinquent collections of railroad taxes slightly exceeded the current levy in both 1940 and 1941, while total realty tax collections advanced from 95.7 per cent in 1940 to 98.1 per cent in 1941. Personal property taxes account for approximately two-thirds of all uncollected and legally collectible delinquent taxes in Cook County for the years since 1927, and experience indicates that only a small portion of this will be collected.

The difficulties with personalty taxes spring from several sources. One is the fact that under the uniformity clause of the state constitution personalty is taxed at the same rate *ad valorem* as realty. The levies are admittedly burdensome on certain classes of personalty, and the situation is only partly alleviated by the practice of assessing personalty at a slightly lower ratio to full value than is used for realty. The situation in this regard is of course beyond the control of the local authorities, some amendment of the state constitution to permit either the removal of personalty from the tax base or its taxation at a lower rate probably being desirable.

The tax collection outlook for the remainder of the year is colored by several important factors which together make it appear unlikely that later collections will reverse the presently evident slump. One of these is the fact that Chicago, which accounts for the bulk of the taxes levied in the county, had last year the second highest tax rate in its history, and has this year the highest. The 1940 rate, used for taxes collectible last year, was \$95.20 per \$1,000 in the city, while the 1941 rate is \$98.90. These rates are against taxable values equal to about 37 per cent of full value, so that on a 100 per cent basis the 1940 rate would be \$35.22 per \$1,000 of full value and the 1941 rate \$36.59.

These are not exceptionally high rates, as the rates for large cities go, but the fact that the current rate is the highest on record locally may be expected to adversely influence collections. This is especially so in view of the heavy federal taxes necessitated by the war, and the fact that rising prices and other uncertainties of warfare make the payment of all taxes increasingly difficult.

Some efforts have been made in recent years to improve the tax collection system, including the modernizing of the tax collection's records, the use of the legal machinery for enforcing tax liens, and a considerable amount of study, research, and educational work aimed at both public officials and the citizens. These are more impressive for their potentialities than for actual accomplishments, however, and it is not unfair to say that Chicago enters the present period of stress only somewhat better as regards tax collections than it was at the beginning of the depression.

Houston Council Amplifies, Increases Mayor's Budget

Press clippings from the city of Houston, Texas, carry an unusual story of a city council taking the administrative budget out of the hands of the executive because it was not sufficiently detailed. According to the press report, the mayor's 1942 budget not only ran about half a million dollars below that of 1941, but also ran to only two pages. The council majority, holding that many cuts were made in essential services, prepared its own document, which is reported to run to nearly fifty pages and to contain itemized appropriations. The council restored some of the cuts and made other increases, so that its budget ran about \$114,000 above that submitted by the mayor.

Reductions in the budget are being made to meet an estimated decline in revenues for 1942, decreases being looked for especially in personalty tax collections and in miscellaneous licenses and charges paid by business enterprises. The drop in personalty tax collections is expected to reflect decreased inventories due to shortages and restrictions on civilian consumption, that in business licenses, etc., to diminished activity resulting from the same restrictions.

Doughton-Cochran Bill Revised

As we go to press Congress continues consideration of the Doughton-Cochran bill to exempt defense contractors from state and local taxes on property going into war orders. However, the measure will probably be considerably less damaging to local revenues than when first introduced. Ways and Means Committee amendments having removed some of the more glaring faults of the bill.

As originally drawn the bill provided for rather sweeping exemption of defense contractors from taxes at

the state and local level where such taxes were based on defense production. Excluded from the exemption were income taxes on the defense contractor, and *ad valorem* property taxes on plant and equipment used in defense production, but otherwise all materials and services used for war products were to be exempt from such excises as the sales and use tax, *ad valorem* property tax, etc.

Amendments to the bill made in committee excluded services from the objects to be tax-exempt, restored to taxability gasoline and other petroleum products, and inserted a recital that nothing in the bill should act to exempt defense contractors from annual *ad valorem* property taxes on real or personal property. As it stands, therefore, the amended bill appears to confer exemption only as to sales and use taxes and to exclude from this exemption those products presently subject to state gasoline taxes.

Just how seriously the bill would affect local revenues if enacted remains to be seen. Government spokesmen are reported to have estimated that war contractors' supplies have yielded to states and localities about \$140,000,000 in state and local taxes, and that during the next fiscal year about \$137,000,000 in local levies would be paid the government through contractors.

An interesting feature of this bill is that its appearance coincides with the Treasury Department's attempt to remove the existing exemption on income from state and local bonds from federal income taxation. In the case of income tax exemption, the government is urging that despite the fact that exemption lowers the cost of borrowing to the states and local units, the exemption should nevertheless be abolished in the interest of equity between taxpayers and increased revenue for the federal government.

In the case of taxation of materials used in government contracts, however, the government is taking the opposite position, and urging that equity as between taxpayers and the revenue needs of the states and local governments count for nothing provided that the cost to the government can be reduced by the exemption. Obviously, the government can't eat its cake and have it, too.

New Jersey Considers Post-War Reserve

The upper house of the New Jersey legislature has passed and sent to the lower chamber a bill which would establish a large reserve fund to help cushion the shock of post-war unemployment and other adjustments. According to the proposal, made before his death by the late state treasurer, William H. Albright, the state would set aside annually \$4,000,000 from the gasoline tax and \$1,000,000 from alcoholic beverage levies until the fund had reached a total of \$50,000,000. Funds so accumulated would be used to assist in meeting the financial problems of municipalities after the war.

Sponsors of the measure reported that it would not reduce the amounts available for highway construction, since reduction in highway debt requirements over the next few years will release funds to hold moneys available for construction near recent levels. They apparently were assuming that gasoline tax receipts would not be seriously curtailed because of wartime restrictions on motor vehicle sales, tire rationing, gasoline rationing, etc. Since gasoline rationing for the eastern seaboard was announced after the New Jersey Senate approved the proposal, it is not unlikely that the measure may be amended.

Proportional Representation

Edited by George H. Hallett, Jr.

(This department is successor to the Proportional Representation Review)

The New Book Against P. R.

***An Examination of
Dr. Hermens' Attack***

This review, by the editor of this department, of F. A. Hermens' *Democracy or Anarchy? A Study of Proportional Representation* (University of Notre Dame, *The Review of Politics*, 1941) appeared in *The American City* for November 1941 along with another review of the same book by Harold W. Stoke of the University of Wisconsin. It is reproduced here in view of the fact that Dr. Hermens' book is being cited by certain opponents of P.R. as authoritative backing for their point of view.

THIS amazing book with its wealth of citation and footnotes gives the superficial appearance of scholarship. But when you start to delve into its 440 pages, if you have the temerity to do so, you soon find that all the laws of scholarship have been violated. It is sometimes contradictory, often inaccurate, oftener illogical, and always lopsided.

For the first 96 pages the author theorizes about what "will" happen under proportional representation and under other methods of election, giving hardly a scintilla of actual evidence, setting up straw men and knocking them down, and often contradicting the known experience of many P.R. communities. He then blandly proceeds, "in the preceding pages it has been shown that P.R. is incompatible with the requirements of democracy." But there has been no demon-

stration of anything, merely speculation.

From that point on, the book is more readable, because it deals with actual history. But it is no mistake that the speculation comes first. To the author that is the really important part. "Reflection alone on the facts of the case, apart from actual experience," he says, "suffices to prove that a country which has democratic government and wants to keep it has every reason to reject P.R." Long ago in Germany he reached that theoretical conclusion, and when, for many reasons, things went badly in the Weimar Republic (which had a party list form of P.R.), he regarded his theory as vindicated. Since then he has been out to save the world from proportional representation.

In analyzing the facts of P. R. experience, Dr. Hermens has no difficulties because he knows the answers beforehand. Whatever is bad under P.R. is evidence against it. Whatever is good is explained away on some other ground.

A large part of the book is devoted to a zealous and uncritical collection of untoward events in P.R. countries and cities. Since even the best of election methods cannot usher in the millennium there are plenty of such events to be found. The recital in itself proves nothing. But since nearly everything good in P.R. communities is studiously avoided and since P.R. is given full blame for everything bad, the impression is cultivated that under P.R. everything is bound to go wrong. The same sort of case could be made against religion or education or democracy or anything else.

For over 150 pages Dr. Hermens develops the highly questionable theory that P.R. was responsible for the woes

of Germany and Italy, in the latter of which it had hardly time to get started. He then gives 55 pages to explaining why P.R. is to be given no credit for the success of democracy in Ireland, Belgium, the Netherlands, Switzerland, Denmark, Norway, and Sweden, and dismisses the P.R. experiences of Czechoslovakia and Finland without discussion. Yet one wonders why, if P.R. is the menace he pictures it to be, all these countries were able to get along so well with it for long periods of years and made no effort to change it.

Going on to American city government, Dr. Hermens admits, in a few words here and there, that such cities as Cincinnati, Toledo, Hamilton, and Wheeling are well governed—a very damaging admission, since in each of these cities the P.R. council determines the whole character of the city government, not only fixing policies but appointing and controlling a city manager to carry them out. But, as before, he puts all the emphasis on what he considers shortcomings.

His eagerness to find these shortcomings leads him astray time after time. Two examples will have to suffice. In discussing the New York City election of 1937, when the City Council was first elected by P.R., Dr. Hermens makes the gross misstatement: "When the results were known, the voters came to realize that the P.R. council was the one point at which the Fusion landslide had been stopped." Actually, the Fusion forces lost all the county offices but one, four-fifths of the city's assemblymen (elected from nearly the same districts as the old Board of Aldermen which preceded the Council), and seven-eighths of the city's delegates to the state constitutional convention (elected from the districts

(Continued on Page 296)

Books in Review

Edited by ELSIE S. PARKER

The Education of Free Men in American Democracy. Washington, D. C., Educational Policies Commission, 1941. 115 pp. 50 cents.

Dr. George S. Counts is the member of the Educational Policies Commission who prepared this book, which is a synthesis of the studies the commission has already published on the relationship of the school to democracy. The book deals with principles, concepts, and ideas; hence it is not wise to read only a little of it. Only by a reading of it all does the meaning of each major term acquire sharpness.

Those whose special interest is adult civic education looking to more active citizenship in local affairs can use this book with profit to originate or modify their practical programs.

W. J. M.

Refuse Collection Practice. By the Committee on Refuse Collection and Disposal. Chicago, American Public Works Association, 1941. xiv, 659 pp. \$5.

One of the aims of the National Municipal League is to inform citizens about the best practices used in local administration and to energize them into demanding such practices. When the latter stage is reached the individual citizen soon learns that only by joining with others can he work effectively. Then tools and methods can be used which are beyond the capacity of the individual.

This book is a case in point. It was prepared to aid those who want to do better an important job—removing refuse—and to such, municipal official and citizen alike, it will prove invaluable. But in the hands of an organization of citizens concerned with

seeing that they get what they should from their taxes and interested in having their city a good place in which to live, it can have another use. It can be used to push forward the method by which all progress is made—comparison.

The volume is based upon data of experience and practice in 190 cities large and small, in the United States and Canada and represents more than two years of research. There is a wealth of illustrative material, a bibliography and an adequate index.

W. J. M.

Additional Books and Pamphlets

Accounting

Municipal Accounting—Principles and Procedures. By Lloyd Morey and Orville W. Diehl. New York City, John Wiley & Sons, Inc., 1942. xiv, 415 pp. \$4.50.

Blighted Areas

A Proposal for Rebuilding Blighted City Areas. Washington, D. C., The Urban Land Institute, 1942. 7 pp.

A Selected List of Important and Recent Publications on Urban Rehabilitation. Chicago, American Institute of Planners, 1942. 1 p. mimeo.

Budgeting

Municipal Budget Procedure and Budgetary Accounting. Chicago, Municipal Finance Officers Association of the United States and Canada, 1942. vii, 100 pp. \$1.

City Manager Government

Recent Council-Manager Developments and Directory of Council-Managers.

ties. Chicago, The International City Managers' Association, 1942. 16 pp. \$1.

Defense

Blackouts and Air Raids — Model Ordinance Annotated. Full Text of Ordinances of 12 Cities Together with Other Model Statutes, Ordinances and Materials Relating to Wartime Problems of Cities. By Charles S. Rhyne. Washington, D. C., National Institute of Municipal Law Officers, 1942. 36 pp.

National Defense and Municipal Legal Problems. By Charles S. Rhyne. Washington, D. C., National Institute of Municipal Law Officers, 1941. iv, 68 p. \$2.

Fire

Municipal Support of Volunteer Fire Companies. Philadelphia, Pennsylvania Government Administration Service, 1941. 24 pp. mimeo. 10 cents.

Initiative and Referendum

City Proposals Voted Upon: 1941. Washington, D. C., Bureau of the Census, 1942. 44 pp.

Libraries

Library Service in Illinois. Springfield, Illinois Legislative Council, Research Department, 1942. ii, 43 pp. mimeo.

National Defense and the Public Library. By Nell A. Unger, Katherine Storey, and others. Chicago, American Library Association, 1942. 48 pp.

Regional and District Libraries. (Revised Edition). Compiled by Julia Wright Merrill. Chicago, American Library Association, 1942. 41 pp. mimeo. 5 cents.

Regional and District Library Laws. Compiled by Julia Wright Merrill. Chicago, American Library Association, 1942. 67 pp. mimeo. 75 cents.

Management

Proceedings of The Institute of Government Management 1941. Denver, Department of Government Management, University of Denver, 1941. xiv, 118 pp.

Parking Meters

Parking Meters in Tennessee. By Kenneth O. Warner. Knoxville, University of Tennessee, Governmental Reference Service, 1942. 22 pp. mimeo.

Planning

Local Planning Activity in the United States. Princeton, New Jersey, The Bureau of Urban Research, Princeton University, 1941. vi, 22 pp.

National Resources Development — Report for 1942. By National Resources Planning Board. Washington, D. C., Superintendent of Documents, 1942. v, 227 pp. 55 cents.

Population Facts for Planning Chicago. Chicago, The Chicago Plan Commission, 1942. viii, 32 pp. charts, illus.

State Legislation on Planning, Zoning and Platting. Washington, D. C., National Resources Planning Board, 1941. vi, 79 pp. mimeo.

Post-War Planning

Post-Defense Readjustments. An Address by David C. Prince. Washington, D. C., Chamber of Commerce of the United States, 1941. 15 pp.

Public Employment

Geographic Distribution of Federal Civilian Employees, 1936-41. By Herman B. Byer and A. C. Edwards. Washington, D. C., United States Government Printing Office, 1942. 18 pp.

Public Employment and the War. A Functional Analysis with Special Attention to State and Local Government. Prepared under Supervision of C. E. Rightor. Washington, D. C., Bureau of the Census, 1942. x, 90 pp.

Recording

Microfilm for Public Records. Topeka, Kansas Legislative Council, Research Department, 1942. iii, 11 pp.

Taxation and Finance

Revenue Laws of California (Annotated) 1941. Compiled by Dixwell L. Pierce. Sacramento, State Board of Equalization, 1942. 1042 pp. \$3.

Taxing Municipals by Federal Statute—The Real Issue. An Address by Austin J. Tobin. New York City, The Conference on State Defense, 1942. 25 pp.

Training for Public Administration

The Development of Administrators.

An Interim Report on Training in Administrative Management. Washington, D. C., United State Department of Agriculture, 1941. 14 pp. mimeo.

Educational Preparation for Public Administration. A List of Colleges and Universities Offering Courses or Programs of Training. New York City, Committee on Public Administration, Social Science Research Council, 1942. 14 pp.

Youth

Youth and the Future. The General Report of the American Youth Commission of the American Council on Education, Owen D. Young, Chairman. Washington, D. C., American Council on Education, 1942. xix, 296 pp. \$2.50.

PROPORTIONAL REPRESENTATION

(Continued from Page 293)

which would have been used for the Council under the new charter if P.R. had been rejected). They lost only half the P.R. Council.

He then has the temerity to suggest that the Fusion forces might have done

better without P.R. in 1939, an "off-year" election when, as happens every fourth year, large numbers of voters stayed at home because no mayor, governor, or president was to be elected. In that year the Democratic organization swept every office in the city except the P.R. Council. In the Council the minorities retained one third of the seats, which was more than they had had in any Board of Aldermen under the old plan since 1919.

Dr. Hermens' purpose is to defend democracy against what he considers a menace. But he does not really believe in democracy as most of us think of it. He quotes with approval former Austrian chancellor: "The first and only essential object of voting is to give the state a legislative body as good as possible, and therefore capable of the best possible action, and to create a majority in it well able to govern. The electoral system is not at all to be considered as to whether it is 'just' for the individual voter . . . but as to whether it gives the state what the state needs." Would not Hitler himself say Amen?

Dr. Hermens' whole theory is one of compulsion, albeit through the electoral system rather than the Gestapo. Whereas most Americans regard the suppression of minorities as an evil and readily accept the ideal of P.R.—majority rule with minority representation—he would suppress most minorities deliberately as a matter of choice. He would force all the people to compromise on the best they can get by a plurality vote, even though that may be the machine despotism of a Tammany or a Boss Hague. He does not trust the people to choose freely the representatives they really want, they can under P.R., for fear they will do something that is not good for the state. That he calls "anarchy."